

1 COUNTY COURT OF THE STATE OF NEW YORK

2 COUNTY OF OSWEGO: CRIMINAL TERM:

3 -----x

4 THE PEOPLE OF THE STATE OF NEW YORK

Indict. No.
94C-0161

5

- against-

HEARING
VOLUME 2

6

7 GARY THIBODEAU,

8

Defendant.

9

-----x

10

Oswego County Courthouse
25 E. Oneida Street
Oswego, NY 13126

11

12 DATE: January 13, 2015

13

B e f o r e:

14

HONORABLE DANIEL R. KING
Acting County Court Judge

15

A p p e a r a n c e s:

16

GREGORY S. OAKES, ESQ.
District Attorney, Oswego County

17

MARK M. MOODY, ESQ.
Chief Assistant District Attorney

18

19

OFFICE OF THE FEDERAL PUBLIC DEFENDER
BY: LISA PEEBLES, ESQ., Public Defender
RANDI JUDA BIANCO, ESQ., Assistant Public Defender

20

21

Defendant is present

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08:48:45

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I N D E X T O W I T N E S S E S

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09:15:57 **1** THE COURT: We are on the record in chambers
09:15:58 **2** on Tuesday, January thirteenth. We've had a conference
09:16:01 **3** regarding some Brady issues that have arisen since
09:16:04 **4** yesterday's hearing, and based upon the issues that
09:16:07 **5** have arisen, both the Federal Public Defender's Office
09:16:11 **6** and the District Attorney's Office has agreed to
09:16:15 **7** continue to move forward on the hearing, but that the
09:16:18 **8** Public Defender's Office will have the right to reopen
09:16:21 **9** any new evidence issues that may arise based upon a
09:16:25 **10** soon to be mutually -- a mutual department
09:16:29 **11** investigation between the Public Defender's Office, the
09:16:33 **12** Federal Public Defender's Office, excuse me, and the
09:16:36 **13** Oswego County District Attorney's Office, is that
09:16:38 **14** agreed?

09:16:38 **15** MS. PEEBLES: Yes.

09:16:39 **16** THE COURT: Agreed?

09:16:40 **17** MR. OAKES: Yes.

09:16:40 **18** THE COURT: Okay, and we will work together,
09:16:42 **19** correct?

09:16:42 **20** MS. PEEBLES: Yes.

09:16:43 **21** MR. OAKES: Absolutely.

09:16:44 **22** THE COURT: Thank you.

09:25:36 **23** (Whereupon, there was an off the record
09:25:36 **24** discussion at the bench).

09:25:38 **25** THE COURT: It is Tuesday morning, January

09:25:46 **1** thirteenth. We're here for the continuation of 440
09:25:49 **2** motion on the Gary Thibodeau matter. Ms. Peebles, are
09:25:51 **3** you ready to call your next witness?
09:25:53 **4** MS. PEEBLES: I am, Your Honor.
09:25:54 **5** THE COURT: At the close of yesterday, Judge
09:25:56 **6** Fahey was on the stand. He was not cross-examined. We
09:25:59 **7** plan on cross-examining him tomorrow morning. With the
09:26:02 **8** consent of the People, he's going to be taken out of
09:26:04 **9** sequence. Is that all right with you, Mr. Oakes, Mr.
09:26:06 **10** Moody?
09:26:06 **11** MR. MOODY: Yes, Judge.
09:26:07 **12** THE COURT: Okay, Ms. Peebles, all right with
09:26:10 **13** you?
09:26:10 **14** MS. PEEBLES: That's fine, Your Honor.
09:26:11 **15** THE COURT: Call your next witness please.
09:26:12 **16** MS. PEEBLES: We would call the Honorable Jack
09:26:16 **17** Brandt.
09:27:18 **18** J O H N B R A N D T, Called as a witness, having been duly
09:27:21 **19** sworn, was examined and testified as follows:
09:27:21 **20** THE CLERK: Please state your name for the
09:27:25 **21** record.
09:27:26 **22** THE WITNESS: John Brandt, B-R-A-N-D-T.
09:27:29 **23** THE CLERK: Thank you.
09:27:29 **24** THE COURT: Judge Brandt, before we go
09:27:31 **25** further, I'm going to ask you if you consent to being

09:27:34 1 video taped and audio taped.
09:27:36 2 THE WITNESS: Sure.
09:27:36 3 THE COURT: You do?
09:27:37 4 THE WITNESS: No problem.
09:27:39 5 DIRECT EXAMINATION
09:27:40 6 BY MS. PEEBLES:
09:27:40 7 Q. Good morning.
09:27:41 8 A. Good morning, Lisa. How are you?
09:27:43 9 Q. Good. Do you currently live in Oswego County?
09:27:45 10 A. I do.
09:27:46 11 Q. How long have you lived in Oswego County?
09:27:48 12 A. Since 1975.
09:27:51 13 Q. What is your current occupation?
09:27:53 14 A. I'm an attorney.
09:27:55 15 Q. What -- what years did you serve as an Oswego County
09:27:59 16 Court Judge?
09:27:59 17 A. 1988 to 1997 I think.
09:28:09 18 Q. In your capacity as an Oswego County Court Judge,
09:28:13 19 did you have a number of dealings with Chief Assistant
09:28:16 20 District Attorney Donald Dodd in criminal cases?
09:28:18 21 A. Yes, I did.
09:28:18 22 Q. Did you have any recurrent problem with discovery
09:28:22 23 issues and his willingness to turn Brady material and
09:28:26 24 discovery items over to the defense?
25 (Whereupon, there was a pause in the

09:28:47 1

proceeding).

09:28:47 2

Q. Let me ask you this.

09:28:48 3

A. What do you mean by problem?

09:28:49 4

Q. Timeliness of turning over Brady material.

09:28:51 5

A. Oh, well --

09:28:52 6

MR. MOODY: I'm going to object. I mean are

09:28:53 7

we going to talk about this specific case or are we

09:28:55 8

talking about --

09:28:56 9

THE COURT: Are you going to specifically talk

09:28:58 10

about --

09:28:58 11

MS. PEEBLES: Yes.

09:28:58 12

THE COURT: -- the Thibodeau case?

09:29:00 13

MS. PEEBLES: Yes.

09:29:00 14

THE COURT: Go right to the Thibodeau case.

09:29:02 15

Q. Did you preside over a proceeding involving the case

09:29:06 16

of Gary Thibodeau?

09:29:07 17

A. Yes. I had some involvement in that case.

09:29:09 18

Q. And specifically was it in connection with the

09:29:12 19

hearing concerning the Omnibus motion filed by at that time

09:29:16 20

Attorney Joseph Fahey?

09:29:19 21

A. Yes. I had an appearance regarding those motions,

09:29:23 22

yes.

09:29:24 23

Q. And have you reviewed that hearing transcript before

09:29:27 24

coming in here today?

09:29:28 25

A. I did.

09:29:28 1 Q. Did you review any other documents before you came
09:29:31 2 in here today?

09:29:31 3 A. I -- I -- I think I read -- I think I read a -- I
09:29:45 4 read the transcript of that proceeding and I read the
09:29:50 5 transcript of the sentencing proceeding before Judge Clary
09:29:57 6 because there was a connection between the two of them.

09:30:00 7 Q. And when you say connection, what do you mean by
09:30:01 8 that?

09:30:02 9 A. There was a significant discussion on the -- on the
09:30:08 10 date that I presided concerning the -- a newspaper article
09:30:15 11 that had been in the -- in the papers a day or so before
09:30:20 12 that hearing regarding information about Heidi Allen, Heidi
09:30:25 13 Allen being an informant for the Sheriff's Department, and
09:30:31 14 the sentencing proceeding involved an issue as I recall
09:30:40 15 with concern about the production of documentation
09:30:48 16 involving Heidi Allen's alleged designation as a
09:30:58 17 confidential informant. I think it involved some diaries
09:31:02 18 that she may have made. So yes, I did, I did read that --
09:31:07 19 that transcript and that was the reason that I read it.

09:31:10 20 Q. During the hearing with regard to the Omnibus
09:31:13 21 motion, do you recall learning about a report created by
09:31:16 22 Sergeant Lortie through newspaper accounts?

09:31:18 23 A. Yeah. That's -- that's what I remember reading is
09:31:23 24 the -- in fact, I didn't read it that much, I just kind of
09:31:26 25 saw the headline the day before, and I mentioned it because

09:31:30 1 Mr. Fahey had -- had brought it up, and Mr. Dodd seemed to
09:31:35 2 be quite unadvised about it. My recollection is that he
09:31:40 3 said that the first time he'd heard about it was in the --
09:31:43 4 when reading the newspaper article himself.

09:31:46 5 Q. And after reading about the news, after reviewing
09:31:50 6 the newspaper article, did you believe the significance of
09:31:54 7 the Lortie report or the accuracy of the Lortie report may
09:31:58 8 have come into question at that point?

09:32:01 9 MR. MOODY: I'm going to object to what he
09:32:04 10 believes, Judge, his mental state, his thoughts.

09:32:06 11 THE COURT: I'll allow it.

09:32:08 12 MS. PEEBLES: I guess I should rephrase the
09:32:10 13 question.

09:32:10 14 THE COURT: Rephrase it, yes.

09:32:13 15 Q. My question is after you -- you had knowledge of
09:32:15 16 that newspaper article going into the hearing, correct?

09:32:18 17 A. Yes.

09:32:18 18 Q. All right, and as a result of reading that article,
09:32:22 19 did you question the accuracy of what was in the Lortie
09:32:25 20 report even though you hadn't seen the Lortie report?

09:32:29 21 A. I didn't question the accuracy of it because I'd
09:32:31 22 never seen it. I think it was Mr. Dodd was questioning the
09:32:36 23 accuracy of it. I don't know. I've never seen the Lortie
09:32:39 24 report.

09:32:40 25 Q. Now, do you recall whether or not there was a

09:32:45 1 discovery deadline in which the parties were supposed to
09:32:48 2 turn over all discovery?

09:32:50 3 A. Let's just -- just be clear about this. On that
09:32:57 4 date we spent about an hour or an hour and twenty minutes
09:33:00 5 discussing the issues of discovery and Brady and Rosario
09:33:04 6 and all of those named items, and having read the response
09:33:12 7 to the discovery motions that had been filed by the
09:33:16 8 District Attorney's Office, Mr. Dodd in particular, I
09:33:20 9 initially inquired of Mr. Dodd what he meant by a lead
09:33:27 10 sheet because that was repeatedly mentioned in the
09:33:31 11 responsive papers, and he explained to me what he meant by
09:33:34 12 a lead sheet, and as a result of that explanation, we
09:33:40 13 entered into discussions about the motions, and I said it
09:33:43 14 seems to me that we don't have a lot to argue about here
09:33:46 15 today because Mr. Dodd has indicated that he's going to
09:33:50 16 turn over everything that he has in the -- in the file in
09:33:56 17 this case including those lead sheets which contain for
09:34:01 18 example the name of all the people who -- who he had -- who
09:34:05 19 the Sheriff's Department had interviewed, so I inquired of
09:34:09 20 him why are you objecting to Mr. Fahey's request for the
09:34:15 21 names and addresses of witnesses that you interviewed since
09:34:18 22 you've already indicated that you're going to turn
09:34:20 23 everything over and -- and I said I don't want to put words
09:34:24 24 in your mouth, Donald, but I'm reading your affidavit, says
09:34:28 25 you're going to turn the file over, and then -- then from

09:34:34 1 that point forward it was just a game of semantics because
09:34:39 2 by the time this motion argument was over, it appeared that
09:34:45 3 there were many items that Donald felt that he did not have
09:34:49 4 to give up and that he was not willing to give up, so I
09:34:53 5 said to the lawyers towards the end of motion argument, get
09:34:58 6 together, deliver what you're agreeing to deliver, and any
09:35:06 7 items that the -- that there's an issue about we will -- we
09:35:12 8 will entertain argument on those and I will make a ruling
09:35:16 9 as to what should be given and what should not, what
09:35:19 10 doesn't have to be given, and I'd let -- I think it was --
09:35:29 11 my recollection is that Mr. Dodd had indicated that there
09:35:32 12 wouldn't be a problem producing the -- reproducing a lot of
09:35:36 13 information, so I think we had eventually agreed on the
09:35:40 14 thirtieth of December for -- for a report date to me as to
09:35:45 15 what was going to be required to be litigated, and so I
09:35:54 16 guess from a standpoint of deadline, I would say that the
09:35:58 17 thirtieth of December.

09:35:58 18 Q. Did you have any involvement with the case after
09:36:01 19 that motion argument?

09:36:04 20 A. You know, my -- my recollection here now is that I
09:36:28 21 was -- something happened with the availability of a judge
09:36:31 22 in Onondaga County, and I believe that the administrative
09:36:34 23 judge assigned me to Onondaga County for the bulk of the --
09:36:44 24 the bulk of the year 1995, and this was 1994 I think?

09:36:50 25 Q. Yes.

09:36:50 1 A. So after the -- in fact, I think I was gone
09:36:53 2 before -- before the thirtieth, before the deadline came
09:36:56 3 up, I think Judge Clary came in and took over, took over
09:36:59 4 the case for here from that point forward, so my
09:37:03 5 recollection now is that I don't believe I had any further
09:37:05 6 involvement in that case at all.

09:37:07 7 MS. PEEBLES: All right, thank you. No
09:37:08 8 further questions.

09:37:09 9 THE WITNESS: You're very welcome.

09:37:11 10 THE COURT: Mr. Moody, just give me a second
09:37:14 11 please, sir.

09:37:14 12 MR. MOODY: Yes.

09:37:18 13 (Whereupon, there was a pause in the
09:37:28 14 proceeding.)

09:37:28 15 THE COURT: Whenever you're ready, sir.

09:37:31 16 CROSS-EXAMINATION

09:37:31 17 BY MR. MOODY:

09:37:32 18 Q. Good morning, Judge.

09:37:51 19 A. Good morning, Mark. How are you?

09:37:54 20 Q. You mentioned that you had been assigned to handle
09:38:02 21 something, some matters in Onondaga County in -- at some
09:38:09 22 point. Do you remember whether that occurred before or
09:38:12 23 after this December eighth appearance?

09:38:14 24 A. I was assigned to various courts primarily after the
09:38:24 25 first year that I had been elected, that I would be sent to

09:38:30 1 Oneida, Onondaga, Jefferson County, Herkimer to cover for
09:38:36 2 judges that were ill or were otherwise indisposed or that
09:38:39 3 there were conflicts, so I would have to say that it was
09:38:42 4 both before and after. I mean I think I -- I think I was
09:38:45 5 assigned to Onondaga County when Judge Gorman retired, and
09:38:49 6 I became an acting Court of Claims Judge, I know I was
09:38:54 7 assigned to Onondaga County when Judge Cunningham became
09:38:57 8 unavailable, and I think there were a couple of occasions
09:39:01 9 when I had took Judge Burke's calendars or presided over
09:39:10 10 cases for him.

09:39:11 11 Q. I guess -- I guess my question is on December eighth
09:39:14 12 do you remember whether or not you knew that you were going
09:39:18 13 to be assigned in Onondaga County?

09:39:20 14 A. No.

09:39:21 15 Q. In ninety-five.

09:39:21 16 A. I did not know that. I -- I suspected it, but I
09:39:25 17 didn't know it.

09:39:26 18 Q. Okay, I want to show you what's been received as
09:39:30 19 People's -- or excuse me, Defendants Exhibit 6. If you
09:39:34 20 could turn to page fourteen and review that to yourself.

09:39:37 21 THE COURT: Page fourteen, Mr. Moody, you
09:39:39 22 said?

09:39:40 23 MR. MOODY: Fourteen.

24 (Whereupon, there was a pause in the
09:39:42 25 proceeding).

09:39:42 1 A. All right, I've read it.

09:40:06 2 Q. Okay, and it seems to me that at that point in time
09:40:08 3 you were in fact -- does that refresh your recollection as
09:40:11 4 to whether you were told you would be in Onondaga County in
09:40:14 5 ninety-five?

09:40:15 6 A. No, it's -- that -- that transcript indicates what I
09:40:20 7 conveyed to the lawyers, that there was a significant
09:40:23 8 possibility that I would be not in this county, but as far
09:40:27 9 as I was concerned, as long as I was here, the case was
09:40:30 10 mine.

09:40:30 11 Q. Now you mentioned that at some point in time you
09:40:36 12 had -- after this date you had no further contact with the
09:40:39 13 case, is that accurate?

09:40:41 14 A. I don't have any recollection of having further
09:40:43 15 contact with the case.

09:40:44 16 Q. Now you mentioned that -- that you set a discovery
09:40:51 17 deadline and you believed it to be December thirtieth, is
09:40:54 18 that accurate?

09:40:55 19 A. My recollection is -- actually to be honest about
09:40:59 20 it, my recollection is I would say refreshed by what I read
09:41:05 21 in the transcript, and I think that was the date that it
09:41:08 22 showed.

09:41:10 23 Q. I apologize. Giving you again Exhibit 6, if you
09:42:07 24 could turn to page twelve on that and review that to
09:42:21 25 yourself and just let me know when you're done.

09:42:23 1 (Whereupon, there was a pause in the
09:42:55 2 proceeding.)

09:42:55 3 A. All right, I've reviewed it.

09:42:57 4 Q. Okay, and then if you could turn to page sixteen and
09:43:00 5 seventeen and review those as well.

09:43:02 6 (Whereupon, there was a pause in the
09:43:04 7 proceeding.)

09:43:04 8 A. Okay.

09:43:47 9 Q. Doesn't it appear from those -- review of those
09:43:50 10 documents that it was actually January thirtieth that was
09:43:53 11 the next -- was the next going to be the Court date for the
09:43:54 12 determination of whether all the discovery had been turned
09:43:57 13 over and not December thirtieth?

09:44:26 14 A. Mark, I see where Donald says he can have the stuff
09:44:29 15 by the sixteenth of December. Where is it?

09:44:30 16 Q. Page seventeen.

09:44:31 17 A. Okay, all right. Hold on.

09:44:33 18 Q. About lines say two through ten.

09:44:40 19 A. All right, in response to a statement that Mr. Dodd
09:44:48 20 made to me, I said, "So it's not going to be a problem for
09:44:54 21 the sixteenth or the end of the year?"

09:44:56 22 Q. Um hum, keep going.

09:44:59 23 A. Right, you're correct. January thirtieth was the
09:45:06 24 report date. I -- you are correct.

09:45:08 25 Q. Now, and then at some point either on January

09:45:13 1 thirty-first or February second was when you found out that
09:45:17 2 you would not be handling the case any more, is that
09:45:23 3 accurate or you don't remember?

09:45:26 4 A. I mean I --

09:45:28 5 Q. Now --

09:45:30 6 A. I can't tell you that, Mr. Moody.

09:45:32 7 Q. Moving backwards now on -- if you look at the -- on
09:45:36 8 page sixteen, or excuse me, on page twelve from that you
09:45:51 9 recommended thirty days, and it was DA Dodd, former DA
09:45:55 10 Dodd, then Chief Assistant Dodd, who said it wouldn't take
09:45:58 11 that long, is that accurate?

09:45:59 12 A. I'm sure that's what -- yes.

09:46:01 13 Q. And he actually said that he could have it by the --
09:46:03 14 and I'm not sure what day of the week December eighth was,
09:46:06 15 but he said he could have it by the following Friday, is
09:46:10 16 that accurate?

09:46:11 17 A. He said he'd have it by the sixteenth.

09:46:15 18 Q. On line seventeen through nineteen on page twelve?

09:46:27 19 A. He did, by Friday of next week.

09:46:31 20 Q. Now, you mentioned that at some point in time there
09:46:36 21 was a discussion about discovery and things. Is that in
09:46:42 22 this -- this discussion in this date?

09:46:44 23 A. Yes.

09:46:44 24 Q. Was that in chambers or off chambers or both or in
09:46:48 25 the record or on the record or both?

09:46:55 1 A. I recall what happened. I mean I recall by this
09:46:59 2 review what happened in open court. My guess would be that
09:47:02 3 we really didn't have any discussions off the record
09:47:07 4 vis-a-vis discovery. I mean there may have been -- there
09:47:10 5 may have been time frame discussions that we may have had,
09:47:15 6 you know, off the record, but for the most part I would say
09:47:18 7 that my -- my best -- my best conclusion or estimate would
09:47:24 8 be that we never really had any discussions in this case
09:47:27 9 that weren't on the record regarding -- regarding the
09:47:30 10 substantive case.

09:47:31 11 Q. Now you mentioned that you -- that in this
09:47:37 12 discussion there was some discussion about the documents
09:47:39 13 being turned over to Mr. Fahey and -- and the discussion
09:47:43 14 also includes some discussion about Judge Walsh, it being
09:47:46 15 turned over to Judge Walsh, is that accurate?

09:47:48 16 A. Yes.

09:47:48 17 Q. And in that discussion, it was also a mention that
09:47:54 18 the file had been opened to both attorneys to come and view
09:47:58 19 whenever they wished, is that accurate?

09:48:01 20 A. Mr. Dodd said that. I mean he said it multiple
09:48:04 21 times.

09:48:05 22 Q. Okay, turning to page eleven in that Exhibit 6, and
09:48:16 23 if you could just review lines five through say sixteen, or
09:48:28 24 actually go all the way to twenty-one.

09:48:32 25 THE COURT: What page, Mr. Moody?

09:48:33 1 MR. MOODY: Page eleven.

09:48:42 2 (Whereupon, there was a pause in the
09:48:43 3 proceeding.)

09:48:43 4 A. All right, I reviewed it.

09:48:44 5 Q. And that -- and that former DA Dodd, judge -- now
09:48:49 6 Judge Dodd in the Town of Oswego, says that -- that he has
09:48:52 7 opened up the file to Mr. Walsh, and Mr. Fahey has not
09:48:55 8 taken advantage of doing the same thing to come view the
09:48:57 9 file, is that accurate?

09:49:00 10 A. Your -- your summary of what this transcript says,
09:49:10 11 is it accurate?

09:49:10 12 Q. Yeah.

09:49:11 13 A. I wouldn't -- I wouldn't agree with that.

09:49:13 14 Q. What wouldn't you agree with?

09:49:15 15 A. Well, you said that the file was opened up to him.
09:49:18 16 This statement says, from Mr. Dodd, that he met with Mr.
09:49:23 17 Walsh twice, and the words are he reviewed the documents,
09:49:30 18 and the next statement was Mr. Fahey has not.

09:49:33 19 Q. Well, maybe I go back a little further, maybe I
09:49:38 20 missed the line, but go up to line three it indicates that
09:49:41 21 Mr. Walsh has been to our office three times.

09:49:44 22 A. Yes.

09:49:44 23 Q. Okay, and then DA Dodd says I met with him in person
09:49:47 24 twice.

09:49:48 25 A. Yes.

09:49:48 1 Q. Now that certainly sounds like Mr. Walsh has been to
09:49:52 2 the file to review the document, is that accurate?

09:49:53 3 A. I wouldn't -- I can't make that -- I can't reach
09:49:56 4 that conclusion from this transcript.

09:49:58 5 Q. Now, they were also sending you copies of whatever
09:50:02 6 discovery, is that accurate?

09:50:05 7 A. I can't answer that. I mean I would say I have no
09:50:13 8 record or no -- no recollection of that.

09:50:15 9 Q. Okay, well, if you could turn to page twenty-six and
09:50:18 10 twenty-seven, from line nineteen on page twenty-six to say
09:50:28 11 line eight on twenty-seven.

09:50:39 12 (Whereupon, there was a pause in the
09:50:40 13 proceeding.)

09:50:40 14 A. Okay.

09:50:41 15 Q. Now you -- in that you say that you have -- "I've
09:50:44 16 got twenty-seven boxes to go through." What did you mean
09:50:48 17 by that?

09:50:48 18 A. There were -- as we sit here -- as I sit here today,
09:50:57 19 I don't remember seeing twenty-seven boxes, and as you're
09:51:02 20 well aware, we used -- continued to use many different
09:51:07 21 courtrooms and chambers, so I'm surmising from this that
09:51:13 22 something must have been delivered to one of the chambers
09:51:17 23 that we used up here, and I indicated in here that how
09:51:23 24 could I schedule any hearings until I reviewed whatever it
09:51:26 25 was that I'd gotten.

09:51:26 1 Q. Now twenty-seven boxes may be hyperbole maybe, an
09:51:30 2 exaggeration, but there was a voluminous amount of material
09:51:34 3 that had been sent to you.

09:51:35 4 A. I believe that's a correct statement.

09:51:36 5 Q. Do you know what has happened to that material?

09:51:38 6 A. I have no idea.

09:51:39 7 Q. What would you have done with it after your portion
09:51:43 8 of the case was over?

09:51:44 9 A. What would I have wanted to do with it or what did I
09:51:52 10 do with it?

09:51:53 11 Q. May be two entirely different answers but we'll
09:51:56 12 stick with what you actually did with it.

09:51:59 13 A. I -- to be quite frank, I didn't -- I didn't look at
09:52:06 14 the stuff then, and I was really waiting for the receipt of
09:52:20 15 information from the lawyers as to what they were fighting
09:52:22 16 about if anything because I wasn't going to spend a lot of
09:52:24 17 time, court time, on items that they had already agreed to
09:52:30 18 exchange.

09:52:32 19 Q. Well, if, for example, some of the items that are
09:52:40 20 disputed to have been sent to the defense are in those
09:52:44 21 items that were sent to you in those however many boxes, if
09:52:48 22 it wasn't twenty-seven, wouldn't that settle much of this
09:52:52 23 problem?

09:52:53 24 MS. PEEBLES: Objection. Speculative.

09:52:55 25 THE COURT: I'm going to allow it.

09:52:59 1 A. I have to be -- I'm going to have to make -- I'm
09:53:09 2 going to have to make an inquiry of you before I can answer
09:53:12 3 that question because I'm not really sure, I'm not really
09:53:18 4 sure what the problem is. You say it's a problem today.

09:53:22 5 Q. Fair enough.

09:53:22 6 A. I don't know what it is.

09:53:23 7 Q. I can understand, it's a poorly worded question.

09:53:26 8 Sometimes as you probably know, sometimes we assume
09:53:28 9 everybody knows what's going on.

09:53:29 10 A. Well, I never -- you may have, Mark, but I --

09:53:32 11 Q. There were certain documents the defense says were
09:53:37 12 not turned over to them.

09:53:39 13 A. Okay.

09:53:39 14 Q. You're aware, and that -- that constitutes allegedly
09:53:44 15 a Brady violation, is that -- and you having been a judge
09:53:49 16 for so long and a lawyer, you understand.

09:53:51 17 A. You know that is from my reading of this transcript
09:53:53 18 of what I've learned from reading the newspapers on this
09:53:56 19 thing is we as members of this profession, we use terms
09:54:02 20 like Rosario and Brady to identify certain materials or
09:54:10 21 evidence, and we all think we are consistent in
09:54:15 22 understanding what -- what is meant by Brady and Rosario
09:54:19 23 material, but I can tell you right now, Mr. Moody, that in
09:54:23 24 ten years of presence on the bench here, my -- I can say,
09:54:34 25 safely say, that Donald Dodd and I never reached agreement

09:54:38 1 as to what he considered to be Rosario material and what I
09:54:43 2 considered to be Rosario or Brady material, so I would say
09:54:47 3 to you in answer to your question, if Brady material was
09:54:51 4 not turned over, obviously there's a serious problem.

09:54:54 5 Q. Well, I agree.

09:54:56 6 A. And if it was turned over --

09:54:57 7 Q. If material --

09:54:58 8 A. And if it was turned over, and I received a copy of
09:55:03 9 it, and I could tell you that I did, maybe your -- maybe
09:55:07 10 your problem would be solved.

09:55:09 11 Q. Well, and I agree with you, Brady material wasn't
09:55:14 12 turned over, there's a serious problem, but if, as part of
09:55:19 13 the routine matters that were going on in this case, if
09:55:23 14 documents were also being sent to the Court as well as --
09:55:26 15 as well as to the defense at the same time, and you had
09:55:32 16 however many boxes of stuff that you had, and it was sent
09:55:34 17 to the Court, certainly that is at least inferential
09:55:39 18 evidence that it was also sent to the defense. Would that
09:55:42 19 be accurate?

09:55:52 20 A. I -- I would answer yes.

09:55:55 21 Q. Now, going back to page eleven on that, on that
09:56:04 22 exhibit, it is indicated there, and if you remember, the DA
09:56:19 23 Dodd, former DA Dodd, said that he had three -- three
09:56:24 24 people working full time to copy this report, is that
09:56:28 25 accurate?

09:56:28 1 A. Yes.

09:56:33 2 Q. Now, turning to the discussion of the -- of the --
09:56:56 3 on page thirty, starting on page thirty and going over to I
09:57:01 4 think it ends on thirty-two or thirty-three, I guess
09:57:06 5 thirty-three is when I guess your comments finish and then
09:57:11 6 Dodd -- yes, okay, yeah. As you mentioned, there is
09:57:17 7 certainly a discussion, and what, you know, as you
09:57:21 8 mentioned about Brady material, words can mean different
09:57:25 9 things to different people, is that accurate? Well, you
09:57:29 10 mentioned that you and judge -- or excuse me, you and DA
09:57:31 11 Dodd had a difference of opinion on what Brady material
09:57:35 12 meant and what Rosario material meant, is that accurate?

09:57:37 13 A. I agree with that, yes.

09:57:38 14 Q. So fair to say that those two words meant different
09:57:42 15 things to the two of you.

09:57:43 16 A. Well, I -- I took the position that material could
09:57:53 17 be Brady and also at the same time be Rosario and vice
09:57:57 18 versa, and Donald never got my analysis of that concept.

09:58:03 19 Q. I guess what I'm saying to you is that two people
09:58:05 20 can look at the same word and think to themselves that it
09:58:09 21 means two different things, is that fair?

09:58:13 22 A. I --

09:58:13 23 Q. Not necessarily wildly different things, but
09:58:16 24 different shades of something. Kind of like an umpire
09:58:19 25 calling a ball and a strike.

09:58:21 1 A. Well, that's like comparing apples to oranges as far
09:58:24 2 as this is concerned. I mean when -- when you say you as a
09:58:28 3 prosecutor are in possession of Rosario material, and you
09:58:34 4 take the position that that information does not have to be
09:58:40 5 provided until completion of jury selection and before
09:58:44 6 opening arguments which is what the statute I believe says,
09:58:50 7 and therefore, you are reluctant to turn it over, should
09:58:56 8 that, for example, that information contained in a
09:59:03 9 statement from a witness to be called by the People,
09:59:07 10 information that is exculpatory, then it has two
09:59:13 11 components, may be Rosario, but it's also exculpatory, and
09:59:17 12 that means that it should be turned over immediately.

09:59:20 13 Q. I can understand that and I think we're getting a
09:59:22 14 little far afield from what I'm trying to ask. There is a
09:59:25 15 discussion on page thirty through thirty-three of Heidi
09:59:27 16 Allen's status as a confidential informant, and if you just
09:59:31 17 review that and see if that is accurate, and the report of
09:59:35 18 Sergeant Lortie is mentioned.

19 (Whereupon, there is a pause in the
09:59:49 20 proceeding).

09:59:49 21 A. I've read through thirty-one and thirty-two so
10:00:13 22 what's your question?

10:00:14 23 Q. There's a discussion there about the Sergeant Lortie
10:00:17 24 report and Heidi Allen's status or lack thereof of being a
10:00:23 25 confidential informant, is that accurate?

10:00:26 1 A. Well, I will say this in response, Mark. I
10:00:57 2 attempted on those pages to condense what I understood the
10:01:03 3 situation to be in which I said there is -- it appears to
10:01:07 4 me, or I see there is possibly some factual dispute as to
10:01:12 5 whether or not Sergeant Lortie is correct in his assertions
10:01:17 6 for that which is directed to him. I don't know whether a
10:01:21 7 report exists or not, but Mr. Dodd has indicated he's going
10:01:24 8 to give you the entire file, so if there are reports in the
10:01:27 9 file involving her prior relationship with the police
10:01:31 10 agencies that would be relevant to this proceeding, it's my
10:01:35 11 belief that he's probably going to give it to you.

10:01:37 12 Q. Okay, I understand that's what it said. What I'm
10:01:40 13 trying to get at is the discussion and distinction -- there
10:01:44 14 are -- let me ask it to you this way. There are different
10:01:47 15 types of people who could be classified as confidential
10:01:49 16 informants, is that accurate?

10:01:51 17 A. I don't know. I don't know the answer to that.

10:01:55 18 Q. All right, fair enough.

10:02:05 19 A. I mean I guess, Mark, I could -- I mean I could tell
10:02:08 20 you what I think the term means but --

10:02:13 21 Q. But someone else may think the term means something
10:02:17 22 different.

10:02:17 23 A. Absolutely, absolutely.

10:02:18 24 Q. That's all I was trying to get at.

10:02:20 25 A. Okay.

10:02:55 1

MR. MOODY: I have nothing further, Judge.

10:03:00 2

THE COURT: Ms. Peebles?

10:03:01 3

MS. PEEBLES: I have nothing further. Thank

10:03:03 4

you.

10:03:03 5

THE COURT: Judge, you can step down.

10:03:04 6

THE WITNESS: Thank you very much.

10:03:16 7

THE COURT: Ms. Peebles.

10:03:17 8

MS. PEEBLES: We would call Robert Calver.

10:03:44 9

THE CLERK: Raise your right hand, put your

10:04:09 10

left on the Bible.

10:04:10 11

R O B E R T C A L V E R, Called as a witness, having been

10:04:15 12

duly sworn, was examined and testified as follows:

10:04:15 13

THE CLERK: Please state your name for the

10:04:19 14

record.

10:04:19 15

THE WITNESS: Robert Calver.

10:04:20 16

THE CLERK: And spell your last name.

10:04:22 17

THE WITNESS: C as in Charles, A-L-V as in

10:04:25 18

Victor, E-R.

10:04:27 19

THE COURT: Mr. Calver, before we start --

10:04:29 20

THE WITNESS: Good morning.

10:04:30 21

THE COURT: How are you, sir? Before we start

10:04:31 22

this morning I'm going to ask you if you consent to

10:04:34 23

having your testimony -- testimony videotaped and audio

10:04:38 24

taped.

10:04:38 25

THE WITNESS: Certainly.

1 DIRECT EXAMINATION

10:04:41 2 BY MS. PEEBLES:

10:04:42 3 Q. Mr. Calver, where do you currently reside?

10:04:45 4 A. Hobe Sound, Florida.

10:04:47 5 Q. And how long have you resided in Florida?

10:04:48 6 A. Approximately four years.

10:04:49 7 Q. And prior to residing in Florida, where did you
10:04:53 8 live?

10:04:53 9 A. In Manlius, New York.

10:04:55 10 Q. What is your current occupation?

10:04:58 11 A. Private investigator.

10:05:00 12 Q. How many years have you been working as an
10:05:02 13 investigator?

10:05:03 14 A. Twenty-five.

10:05:04 15 Q. How long have you been a licensed private
10:05:08 16 investigator?

10:05:09 17 A. Twenty-five.

10:05:10 18 Q. And what type of cases have you investigated
10:05:12 19 throughout the years?

10:05:13 20 A. Mostly insurance fraud for large corporate entities
10:05:19 21 and domestic files and just about every, runs a gamut, just
10:05:28 22 about everything.

10:05:29 23 Q. Are you currently licensed?

10:05:31 24 A. Yes.

10:05:31 25 Q. Now, when you lived in Syracuse, New York area and

10:05:34 **1** Manlius area, did you do any investigative work on behalf
10:05:37 **2** of Gary Thibodeau?

10:05:38 **3** A. Yes.

10:05:39 **4** Q. I'm going to ask you some questions about the
10:05:40 **5** investigation you did for Gary Thibodeau. Who hired you?

10:05:44 **6** A. Joseph Fahey, Judge Fahey.

10:05:48 **7** Q. Do you recall at what stage of the proceedings you
10:05:51 **8** were involved in when you were hired to investigate the
10:05:54 **9** case against Gary Thibodeau?

10:05:56 **10** A. From inception.

10:05:57 **11** Q. Was anyone else working with you?

10:05:59 **12** A. I had -- at that time I was married and my -- my
10:06:03 **13** former was involved in the business and she had something
10:06:06 **14** to do with the file too.

10:06:08 **15** Q. Were you also doing any investigative work for Mr.
10:06:11 **16** Walsh who was representing Richard Thibodeau?

10:06:13 **17** A. Yes.

10:06:14 **18** Q. Now, what tasks were you assigned to do when you
10:06:19 **19** were hired to investigate the case for Gary Thibodeau?

10:06:22 **20** A. Interview witnesses, locate witnesses, serve
10:06:26 **21** paperwork, review files, pick up boxes of information, just
10:06:30 **22** about everything that they needed.

10:06:32 **23** Q. And did there come a time when you were asked to
10:06:36 **24** investigate information concerning whether or not Heidi

10:06:40 **25** Allen had actually been an informant?

10:06:42 1 A. I -- I -- yes, I did. I did get hearsay regarding
10:06:51 2 that situation.

10:06:52 3 Q. And did you uncover anything that revealed that
10:06:55 4 Heidi Allen was actually an informant?

10:06:58 5 A. No.

10:06:58 6 Q. Did you receive any reports concerning whether or
10:07:03 7 not Heidi Allen was an informant?

10:07:06 8 A. No.

10:07:06 9 MS. PEEBLES: No further questions.

10:07:21 10 THE COURT: Mr. Moody?

10:07:23 11 MR. MOODY: Yes, Judge. One second.

12 (Whereupon, there was a pause in the
10:07:39 13 proceeding).

10:07:39 14 THE COURT: Mr. Calver has a bad ear infection
10:07:41 15 in his left ear so he may be turning his head to his
10:07:44 16 right ear, okay. Speak loudly.

10:07:48 17 MR. MOODY: Try to speak loudly.

18 CROSS-EXAMINATION

19 BY MR. MOODY:

10:07:52 20 Q. You mentioned that you had done work for both Judge
10:07:58 21 Fahey and Judge Walsh.

10:07:59 22 A. Correct.

10:08:00 23 Q. Okay, and on the same case, on both of Richard
10:08:04 24 Thibodeau's case and Gary Thibodeau's case.

10:08:06 25 A. Correct.

10:08:06 1 Q. Both involving the case involving the disappearance
10:08:10 2 and abduction of Heidi Allen.

10:08:12 3 A. Correct.

10:08:12 4 Q. And so fair to say that Judge Walsh and Judge Fahey
10:08:16 5 were working together and sharing documents, sharing your
10:08:20 6 services, that kind of thing?

10:08:22 7 A. Yes, I would say so.

10:08:24 8 Q. Okay, fair to say then that -- that they would have
10:08:28 9 meetings I assume with you to save time at the same time.

10:08:31 10 A. Yes.

10:08:31 11 Q. And you would be providing them your reports?

10:08:35 12 A. Yes.

10:08:36 13 Q. Either together or the same duplicate reports. Fair
10:08:40 14 to say then that they were -- together they would be
10:08:44 15 reviewing files, documents, things that had been disclosed
10:08:47 16 to them?

10:08:49 17 A. Between the two of them?

10:08:51 18 Q. Or in your presence between the two of them.

10:08:53 19 A. No, usually it was -- it was never between the two
10:08:56 20 of them while I was present. They were -- I would meet
10:08:59 21 with each of them separately.

10:09:01 22 Q. Do you have any knowledge whether the two of them
10:09:03 23 ever met say at either Judge Fahey's house, Judge Fahey's
10:09:08 24 office or Judge Walsh's house or Judge Walsh's office?

10:09:11 25 A. No, I do not.

10:09:12 1 Q. You have no knowledge. Now you said that you had
10:09:14 2 never seen or found any reports involving her being a
10:09:19 3 confidential informant, is that accurate?

10:09:21 4 A. Correct.

10:09:21 5 Q. Now, I want to show you what's been marked as
10:09:36 6 Defendant's Exhibit 5. If you could review that -- I
10:09:44 7 believe it's ten pages, if you could review that.

10:09:51 8 (Whereupon, there was a pause in the
10:11:48 9 proceeding.)

10:11:48 10 Q. After reviewing this exhibit, had you ever seen any
10:11:53 11 of the -- any of the pages in this exhibit?

10:11:57 12 A. I, you know, it's familiar, but it's -- at the same
10:12:01 13 time I can't say that I've reviewed that particular
10:12:04 14 information.

10:12:05 15 Q. Well, turning to page seven on that document, this
10:12:12 16 contains a report or a narrative more precisely of a Deputy
10:12:18 17 Richard Curtis, is that accurate?

10:12:23 18 A. Yes.

10:12:23 19 Q. And do you remember in regards to the Heidi Allen
10:12:28 20 case who Deputy Richard Curtis was and what his importance
10:12:31 21 was?

10:12:33 22 A. I wasn't personally familiar with him, no.

10:12:36 23 Q. Well, I'm just referring to the case. You may not
10:12:38 24 be personally familiar with him.

10:12:39 25 A. Only by name, yes.

10:12:41 1 Q. Okay, he was the first deputy on the scene, is that
10:12:44 2 accurate?

10:12:45 3 A. Yes.

10:12:45 4 Q. Okay, and had you seen that report?

10:12:52 5 A. It's familiar but not totally.

10:12:56 6 Q. When you say familiar, not totally, does that mean
10:12:59 7 you've seen it but you don't remember it or --

10:13:01 8 A. Yes.

10:13:03 9 Q. And if I could have it back for just one second.

10:13:06 10 A. Sure.

10:13:07 11 Q. Turning to page one on the document, do you
10:13:25 12 recognize whether you had ever seen that page?

10:13:35 13 A. No. It's a standard incident report. I may have
10:13:38 14 seen it, I may not have seen it.

10:13:39 15 Q. Well, in that report it indicates does it not the
10:13:43 16 time of occurrence between 7:45 to 7:55, is that accurate?

10:13:48 17 A. Yes.

10:13:48 18 MS. PEEBLES: Objection. How is this
10:13:50 19 relevant?

10:13:50 20 THE COURT: Where are we going with this, Mr.
10:13:52 21 Moody?

10:13:53 22 MR. MOODY: I'll get to it in a second, Judge,
10:13:55 23 if I could just --

10:13:55 24 THE COURT: How about quickly. I'll allow it.

10:13:57 25 Q. Is that what it says?

10:13:58 1 A. Yes.

10:13:58 2 Q. Okay, critical to the case involving the Thibodeaus
10:14:03 3 was the time frame between 7:42 when the last sale was
10:14:07 4 made, admittedly by -- to Richard Thibodeau, is that
10:14:10 5 accurate?

10:14:10 6 MS. PEEBLES: Objection.

10:14:11 7 THE COURT: Both approach please.

10:14:14 8 (Whereupon, there was an off the record
10:15:42 9 discussion at the bench.)

10:15:42 10 Q. I'll take that back.

10:15:48 11 THE COURT: Thank you.

10:15:49 12 Q. Now you mentioned that you were working for both
10:15:56 13 Judge Walsh and Judge Fahey and that you had been asked at
10:16:00 14 one point by Judge Fahey to investigate whether or not Ms.
10:16:04 15 Allen had ever been a confidential informant, is that
10:16:07 16 accurate?

10:16:08 17 A. No, I was not asked about it. I -- I heard rumors
10:16:12 18 about it. I hadn't seen any forms or any information
10:16:14 19 regarding her status as a confidential informant.

10:16:17 20 Q. I believe the question you were asked on direct was
10:16:19 21 whether you were asked to investigate it, and your answer
10:16:22 22 was that you had never seen any documents, is that
10:16:25 23 accurate, or am I misunderstanding the question that was
10:16:28 24 asked?

10:16:28 25 A. I think you're misunderstanding.

10:16:29 1 Q. Now, after the trial of Gary Thibodeau, did you
10:16:36 2 continue to work with Judge Walsh?

10:16:37 3 A. Yes.

10:16:38 4 Q. And during the course of the time that you met with
10:16:42 5 Judge Walsh, did he -- he ever show you any documents
10:16:46 6 concerning Heidi Allen's -- Heidi Allen's status as a
10:16:52 7 confidential informant?

10:16:53 8 A. No.

10:18:28 9 (People's Exhibit G was marked for
10:18:31 10 identification).

10:18:31 11 MR. MOODY: Now --

10:18:32 12 MS. PEEBLES: Can I see it?

10:18:34 13 MR. MOODY: Sure.

10:18:34 14 (Whereupon, there was a pause in the
10:18:59 15 proceeding.)

10:18:59 16 Q. Now in the context of working for both Judge Fahey
10:19:05 17 and Judge Walsh, would you provide them with documents
10:19:08 18 about what you had done, reports or however you want to
10:19:11 19 refer to it?

10:19:11 20 A. Yes.

10:19:12 21 Q. Okay, and would you provide them with the same
10:19:15 22 documents or different documents?

10:19:16 23 A. Different.

10:19:16 24 Q. Different documents? I want to show you what's been
10:19:20 25 marked as People's -- hum?

- 10:19:22 1 A. Depending on the situation.
- 10:19:24 2 Q. Showing you what's been marked as People's Exhibit
- 10:19:27 3 G, I'm going to ask you if you recognize that document.
- 10:19:55 4 (Whereupon, there was a pause in the
- 10:20:00 5 proceeding.)
- 10:20:00 6 A. I can't say that I -- that I recognize it a hundred
- 10:20:03 7 percent. I don't know. Could have been from my file.
- 10:20:11 8 Q. All right, when you say could have been, you don't
- 10:20:13 9 know one way or the other?
- 10:20:14 10 A. So long ago I don't recognize it.
- 10:20:17 11 Q. Fair enough. Now, you mentioned that you -- that
- 10:20:24 12 your -- I guess it's your ex-wife was in the business as
- 10:20:28 13 well?
- 10:20:28 14 A. Correct.
- 10:20:29 15 Q. And her first name is Joyce?
- 10:20:30 16 A. Joyce.
- 10:20:31 17 Q. On March fourteenth of 1995, you, Judge Walsh, Judge
- 10:20:39 18 Fahey and your ex-wife Joyce came up to the Oswego County
- 10:20:43 19 DA's Office to review some video tapes and documents at the
- 10:20:48 20 DA's office did you not or the Sheriff's Department?
- 10:20:51 21 A. I don't recall.
- 10:20:51 22 Q. You don't recall it?
- 10:20:53 23 Q. Did you ever go to the Sheriff's Department or the
- 10:20:57 24 DA's Office to review any kind of videotapes, audio tapes
- 10:21:01 25 or documents?

10:21:01 **1** **A.** No, I don't believe I did. Just to pick up boxes of
10:21:04 **2** information.

10:21:05 **3** **Q.** Did you during the course of that time meet
10:21:10 **4** Investigator Terry Whipple?

10:21:12 **5** **A.** No.

10:21:13 **6** **Q.** Have you ever met Investigator Terry Whipple?

10:21:20 **7** **A.** No, I don't believe I have.

10:21:22 **8** **Q.** Did you ever have an opportunity to listen to an
10:21:29 **9** audio tape of an interview with Robert Baldisaro (ph) done
10:21:33 **10** by the Oswego County Sheriff's Department?

10:21:35 **11** **A.** I don't believe I did.

10:21:37 **12** **Q.** Did you look at every document that was in Judge
10:21:54 **13** Fahey's file?

10:21:55 **14** **A.** I can't say that I did.

10:21:58 **15** **Q.** Did you look at every document that was in Judge
10:22:01 **16** Walsh's file?

10:22:02 **17** **A.** I can't say that I did.

10:22:08 **18** **Q.** Fair to say then one way or the other you can't say
10:22:11 **19** what Judge Walsh or Judge Fahey had prior to trial with any
10:22:17 **20** certainty.

10:22:17 **21** **A.** I reviewed the materials that we picked up in the
10:22:20 **22** boxes of information that were released to us, but it was
10:22:25 **23** so long ago I can't say I'm familiar with what was in it.

10:22:29 **24** **MR. MOODY:** Thank you. No further questions.

10:22:31 **25** **THE COURT:** Ms. Peebles, anything on redirect?

10:22:34 1 MS. PEEBLES: Just one followup.

10:22:35 2 REDIRECT EXAMINATION

10:22:36 3 BY MS. PEEBLES:

10:22:36 4 Q. After Gary had been convicted, you were going to
10:22:40 5 help Mr. Walsh prepare for Richard's trial, correct?

10:22:43 6 A. Correct.

10:22:44 7 Q. And what were you focussed on in preparation for
10:22:48 8 Richard's trial, do you remember?

10:22:49 9 A. I would say just making sure that our files were in
10:22:57 10 order.

10:22:57 11 Q. Well, did you come across information regarding an
10:23:01 12 alibi for Richard Thibodeau?

10:23:04 13 A. Yes.

10:23:05 14 Q. And I guess what I'm asking you was -- was this
10:23:11 15 information new after Gary was convicted? Did a witness
10:23:17 16 come forward -- let's strike that, did a witness come
10:23:19 17 forward in Richard's trial that was not part of Gary's
10:23:23 18 trial that you had to investigate?

10:23:26 19 MR. MOODY: Objection. Is this a defense
10:23:28 20 witness or People's witness or --

10:23:30 21 THE COURT: Can you clarify?

10:23:31 22 MS. PEEBLES: A People's witness.

10:23:34 23 THE WITNESS: Yes.

10:23:36 24 Q. Do you remember what you were trying to track down
10:23:38 25 in preparation for Richard's trial?

10:23:40 1 A. I was trying to track down whether or not he had
10:23:42 2 work records of a particular incident that he -- that we
10:23:47 3 were looking at.

10:23:48 4 Q. And did that develop after Gary's trial?

10:23:52 5 A. Yes.

10:23:53 6 MS. PEEBLES: No further questions.

10:23:59 7 THE COURT: Mr. Moody, anything?

10:24:01 8 MR. MOODY: Yes.

10:24:02 9 RE-CROSS-EXAMINATION

10:24:03 10 BY MR. MOODY:

10:24:04 11 Q. Do you remember the witness, the People's witness
10:24:24 12 that you were referring to or that Ms. Peebles was
10:24:29 13 referring to, do you remember the name of that witness?

10:24:31 14 A. No, I do not.

10:24:32 15 Q. If I told you it was maybe Statton, or Stratton,
10:24:36 16 would that -- does that refresh your recollection?

10:24:37 17 A. No. I'd have to read the file, look it over.

10:24:40 18 Q. Do you remember the name of the witness that you
10:24:42 19 found or the documents that you found, if you found
10:24:46 20 anything, regarding an alibi for Richard?

10:24:49 21 A. I -- I vaguely recall a work record that -- that we
10:24:55 22 investigated, dug up.

10:24:57 23 MR. MOODY: Thank you. No further questions.

10:24:59 24 MS. PEEBLES: No further questions.

10:25:00 25 THE COURT: Sir, you can step down. Thank

10:25:01 1
10:25:06 2
10:25:07 3
10:25:10 4
10:25:54 5
10:26:01 6
7
10:26:03 8
10:26:03 9
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10:26:25 18
10:26:26 19
10:26:27 20
10:26:29 21
10:26:31 22
10:26:34 23
10:26:37 24
10:26:39 25

you.

THE WITNESS: Sure.

MS. PEEBLES: Call Darlene Upcraft.

THE COURT: Darlene Upcraft please.

THE CLERK: Raise your right hand, place your left hand on the Bible.

D A R L E N E U P C R A F T, Called as a witness, having been duly sworn, was examined and testified as follows:

THE CLERK: Please state your name for the record.

THE WITNESS: Darlene Ellen Upcraft.

THE CLERK: Spell your last name.

THE WITNESS: U-P-C-R-A-F-T.

THE CLERK: Thank you. Have a seat please.

THE COURT: Ms. Upcraft, safe to assume this is the first time you have ever testified?

THE WITNESS: Yes.

THE COURT: Are you a little nervous?

THE WITNESS: Yes.

THE COURT: The only thing I'm going to say to you is you're a very soft spoken person, so make sure the wall, see the picture of the guy hanging up on the wall? Make sure he hears you, okay? And the next question I'm going to have is do you consent to having your testimony video and audio taped by the media? If

10:26:43 1 you don't want to you don't have to.

10:26:45 2 THE WITNESS: No.

10:26:45 3 THE COURT: She does not consent. Okay. So
10:26:48 4 make sure the gentleman on the wall behind Ms. Peebles
10:26:51 5 hears you.

10:26:52 6 THE WITNESS: Okay.

10:26:53 7 THE COURT: Thank you.

8 DIRECT EXAMINATION

10:26:53 9 BY MS. PEEBLES:

10:26:54 10 Q. Good morning, Ms. Upcraft.

10:26:55 11 A. Hello.

10:26:56 12 Q. Where have you lived throughout your -- your life?

10:27:01 13 A. Duke Road in Scriba.

10:27:07 14 Q. Are you currently employed?

10:27:08 15 A. I'm retired.

10:27:09 16 Q. What was your occupation?

10:27:10 17 A. I was a quality assurance manager at Anheuser-Busch.

10:27:15 18 Q. And where is Duke Road in relation to 104?

10:27:19 19 A. It intersects 104 in Scriba.

10:27:23 20 Q. So having lived on Duke Road for -- are you -- how
10:27:26 21 old are you?

10:27:26 22 A. Fifty-eight.

10:27:28 23 Q. So for fifty-eight years you're familiar with the
10:27:31 24 intersection of 104 and 104B?

10:27:33 25 A. Yes.

10:27:34 **1** Q. Had you ever been to the convenience store located
10:27:38 **2** at the intersection of 104 and 104B?

10:27:40 **3** A. Yes.

10:27:40 **4** Q. And in 1994, were you familiar with the convenience
10:27:46 **5** store at the time referred to as the D&W?

10:27:49 **6** A. Yes.

10:27:49 **7** Q. And how often would you drive by or be near the
10:27:54 **8** D&W or go to the D&W?

10:27:58 **9** A. A lot.

10:27:58 **10** Q. Did you know Heidi Allen?

10:28:00 **11** A. No.

10:28:01 **12** Q. Do you remember the morning Heidi Allen was
10:28:04 **13** abducted?

10:28:05 **14** A. Yes.

10:28:05 **15** Q. Do you remember when that was?

10:28:07 **16** A. It was Easter Sunday.

10:28:10 **17** Q. Did you drive by the D&W Convenience Store the
10:28:15 **18** morning Heidi Allen was abducted?

10:28:16 **19** A. Yes.

10:28:17 **20** Q. Now I want to ask you some questions about your
10:28:18 **21** observations on Easter Sunday of 1994 when you drove by the
10:28:22 **22** D&W Convenience Store. What time do you recall leaving
10:28:26 **23** your home?

10:28:27 **24** A. It was before -- I was going to sunrise service in
10:28:31 **25** New Haven so it was probably before seven o'clock in the

- 10:28:34 **1** morning.
- 10:28:34 **2** Q. How far was your home from the D&W?
- 10:28:38 **3** A. About four, four and a half miles.
- 10:28:40 **4** Q. Who was with you in the vehicle?
- 10:28:44 **5** A. My son Kevin.
- 10:28:46 **6** Q. Do you recall the weather conditions?
- 10:28:49 **7** A. I know that morning it was gloomy on my way to
- 10:28:52 **8** church.
- 10:28:53 **9** Q. Did you have to drive by the D&W on your way to
- 10:28:57 **10** church?
- 10:28:57 **11** A. Yes.
- 10:28:57 **12** Q. Do -- and you -- you don't recall specifically
- 10:29:02 **13** exactly what time?
- 10:29:04 **14** A. Probably quarter to seven but I'm --
- 10:29:09 **15** Q. Now, when you drove by that morning, what do you
- 10:29:15 **16** recall observing?
- 10:29:16 **17** A. When I went by, I was surprised that D&W was open on
- 10:29:21 **18** Easter Sunday, and I remember looking at it and thinking my
- 10:29:26 **19** son would want to be stopping for a Mountain Dew, and I was
- 10:29:31 **20** like I don't have time, and I remember seeing a white rusty
- 10:29:35 **21** van parked in front of the store.
- 10:29:40 **22** Q. Now when you gesture with your hands, are you
- 10:29:42 **23** suggesting it was perpendicular to the store?
- 10:29:45 **24** A. Yes.
- 10:29:52 **25** Q. After making that observation did you go -- did you

10:29:55 1 attend your services?

10:29:56 2 A. Yes.

10:29:56 3 Q. And did you have to drive by the D&W after you left
10:30:00 4 the church services?

10:30:01 5 A. Yes, I did.

10:30:02 6 Q. When you drove by the D&W after you left church, did
10:30:06 7 you notice anything?

10:30:06 8 A. I didn't. I -- I was thinking I had to get to like
10:30:12 9 home and church service, I was doing an Easter egg hunt,
10:30:17 10 and I had a bunch of Easter eggs and I didn't know where I
10:30:20 11 was going to put them because it was snowing.

10:30:22 12 Q. Well, did you later learn that Heidi Allen was
10:30:24 13 missing?

10:30:25 14 A. Yes.

10:30:25 15 Q. I want to ask you now some questions about what you
10:30:27 16 did after you learned Heidi Allen was missing. Did you
10:30:30 17 talk to anyone from the Sheriff's Department when you
10:30:33 18 became aware that Heidi Allen was missing?

10:30:36 19 A. Yes.

10:30:37 20 Q. And when did you do that?

10:30:39 21 A. I believe it was that next week they had set up a
10:30:42 22 command center and had asked for anybody had seen anything
10:30:47 23 to come out, and I was on my way to ceramics with my friend
10:30:57 24 Missy and we were talking that we should do it, go, and we
10:30:59 25 turned around and went. It was an evening. I can't tell

10:31:02 1 you what evening it was.

10:31:03 2 Q. Do you know whether you signed a statement?

10:31:06 3 A. I believe I did but I can't swear to it.

10:31:10 4 Q. And what did you tell them about your observations?

10:31:14 5 A. I told them that I was on my way to church for

10:31:18 6 Easter sunrise service and saw a white rusty van parked in

10:31:23 7 front of the D&W Store.

10:31:26 8 Q. And do you recall specifically who you spoke to?

10:31:29 9 A. No, I don't.

10:31:30 10 Q. After you gave your initial statement or disclosure

10:31:33 11 at the command center, were you contacted by anyone from

10:31:36 12 the Sheriff's Department?

10:31:37 13 A. I got a phone call, a message from some law

10:31:43 14 enforcement, I can't tell you, I don't know for sure if it

10:31:45 15 was the Sheriff's Department, saying that they wanted me to

10:31:48 16 call because they wanted to talk about the or to confirm

10:31:53 17 the van I had seen. Before I called them, a sheriff came

10:32:00 18 to my house and asked me about the van, and then I had told

10:32:09 19 him it was a white rusty van is what I saw, and then one

10:32:14 20 more time I happened to be going to my mailbox and a

10:32:18 21 sheriff came in and also asked me about the van I had seen.

10:32:25 22 Q. What were they asking you specifically about the

10:32:27 23 van?

10:32:28 24 A. The color.

10:32:30 25 THE COURT: Before you go on, you said there

10:32:32 1 was a second opportunity that a police officer came by
10:32:34 2 your home when you went to the mailbox?

10:32:36 3 THE WITNESS: Yes. I mean they were coming
10:32:38 4 and I just happened to be outside.

10:32:39 5 THE COURT: Okay.

10:32:40 6 THE WITNESS: So I knew they were both
10:32:42 7 sheriffs because of the car.

10:32:43 8 Q. Were they inquiring with regard to anything on the
10:32:48 9 van other than it being white and rusty?

10:32:51 10 A. They just wanted to confirm that that's what I had
10:32:53 11 seen.

10:32:54 12 Q. Did they ask you whether the van was black and
10:32:56 13 white?

10:32:56 14 A. I believe they did the second time.

10:32:59 15 Q. And -- and what did you tell them?

10:33:00 16 A. I said no, it was white and rusty. That's all I
10:33:07 17 remember seeing.

10:33:07 18 Q. Now, at some point in time did you see the --
10:33:10 19 Richard Thibodeau's van on the news?

10:33:12 20 A. Yes, following talking to the sheriffs.

10:33:16 21 Q. And was that the van you saw?

10:33:17 22 A. No.

10:33:19 23 Q. I'm going to hand you what's been marked as
10:33:23 24 Defendant's Exhibit 19 and ask you to take a look at that
10:33:27 25 document and turn to the second page.

10:33:35 1 THE COURT: You said nineteen, Ms. Peebles?

10:33:38 2 MS. PEEBLES: Yes.

10:33:52 3 Q. Is there anything on that lead sheet that suggests
10:33:55 4 that you saw anything when you drove by the D&W?

10:33:59 5 A. No.

10:34:00 6 Q. In fact, it indicates that you didn't see anything,
10:34:05 7 correct?

10:34:05 8 A. Correct.

10:34:14 9 MS. PEEBLES: I have no further questions.

10:34:26 10 THE COURT: Are you moving nineteen in? Is
10:34:29 11 that stipulated to?

10:34:30 12 MS. PEEBLES: Will you stipulate to this lead
10:34:32 13 sheet?

10:34:34 14 MR. OAKES: Yeah.

10:34:35 15 MS. PEEBLES: Yeah, it's -- we'll move it into
10:34:37 16 evidence and they're stipulating, Your Honor.

10:34:38 17 THE COURT: No objection. It's stipulated to.
18 (Defendant's Exhibit No. 19 was received in
19 evidence).

20 CROSS-EXAMINATION

10:35:11 21 BY MR. MOODY:

10:35:11 22 Q. Good morning, Ms. Upcraft.

10:35:12 23 A. Good morning.

10:35:13 24 Q. You said you went to sunrise service?

10:35:15 25 A. Yes.

- 10:35:15 **1** Q. What church did you go to?
- 10:35:17 **2** A. United Methodist in New Haven.
- 10:35:20 **3** Q. And you still go to that church?
- 10:35:21 **4** A. No. Actually I always went to Lycoming church. New
- 10:35:26 **5** Haven and Lycoming had a partnership.
- 10:35:29 **6** Q. Do you know a gentleman by the name of Harold
- 10:35:32 **7** Wiltsie (ph)?
- 10:35:32 **8** A. I know of him.
- 10:35:34 **9** Q. Did he go to -- did he go to that church or how did
- 10:35:38 **10** you know -- how do you know of him?
- 10:35:40 **11** A. I believe it was New Haven church. I've heard the
- 10:35:45 **12** name.
- 10:35:45 **13** Q. Okay, you mentioned that you couldn't remember what
- 10:35:48 **14** time you drove by. Do you remember what time sunrise
- 10:35:51 **15** service starts?
- 10:35:52 **16** A. I don't remember --
- 10:35:57 **17** Q. Now --
- 10:35:57 **18** A. -- exactly.
- 10:35:57 **19** Q. Do you remember giving an affidavit to the defense?
- 10:36:00 **20** A. Yes.
- 10:36:01 **21** Q. A statement?
- 10:36:01 **22** A. Yes.
- 10:36:02 **23** Q. I want to show you what's been marked as Defendant's
- 10:36:05 **24** Exhibit 18 and ask you if you reviewed -- if you could
- 10:36:07 **25** review that to yourself and see if that refreshes your

- 10:36:10 **1** recollection as to what time you drove by.
- 10:36:13 **2** **A.** Says 6:30.
- 10:36:28 **3** **Q.** Okay, does that seem accurate?
- 10:36:30 **4** **A.** Yes.
- 10:36:32 **5** **Q.** What -- and now if you remember, Easter Sunday of
- 10:36:40 **6** 1994 was also the beginning of daylight savings time, turn
- 10:36:44 **7** the clock ahead, do you remember that? Certainly you
- 10:36:47 **8** wanted to be on time for -- for sunrise service, right?
- 10:36:50 **9** **A.** Right.
- 10:36:50 **10** **Q.** So 6:35 would be accurate time because you were
- 10:36:54 **11** going to go to the sunrise service.
- 10:36:56 **12** **A.** Right.
- 10:36:56 **13** **Q.** Seem right? Now showing you what's been admitted as
- 10:37:00 **14** Exhibit 19, if you could look at that, what time did you
- 10:37:05 **15** tell the Sheriff's Department or what time did the
- 10:37:08 **16** Sheriff's Department write down that you passed by the
- 10:37:10 **17** D&W?
- 10:37:11 **18** **A.** 6:35.
- 10:37:12 **19** **Q.** All right. Now, how long does sunrise service last
- 10:37:20 **20** or did it last on Easter of ninety-four?
- 10:37:23 **21** **A.** I -- I can't tell you. According to that was half
- 10:37:28 **22** an hour but --
- 10:37:28 **23** **Q.** Okay, well, at 6:35 you drove by and you said you
- 10:37:34 **24** saw a vehicle, I think you described it as a white rusty
- 10:37:36 **25** van.

10:37:37 1

A. Yes.

10:37:37 2

Q. Okay, and when you drove by at 7:30 approximately, I

10:37:42 3

think that is what you said, about 7:30?

10:37:43 4

A. Right.

10:37:44 5

Q. You didn't see anything.

10:37:45 6

A. No.

10:37:46 7

Q. You didn't see any police tape up?

10:37:48 8

A. No.

10:37:48 9

Q. Accurate?

10:37:49 10

A. No, I saw nothing.

10:37:50 11

Q. You didn't see any vehicles in the -- in the -- to

10:37:53 12

your recollection in the parking lot at all?

10:37:55 13

A. I truly didn't see anything.

10:37:57 14

Q. All right, so and to your knowledge, do you know

10:38:04 15

what -- or do you know what time Heidi Allen would have

10:38:09 16

been -- the last time that Heidi Allen was at the store, at

10:38:12 17

the D&W?

10:38:13 18

A. I don't know.

10:38:15 19

Q. Now, you were -- do you know a Katherine and David,

10:38:20 20

and I may pronounce, mispronounce their last name, but

10:38:24 21

Doushin (ph)?

10:38:25 22

A. Yes, she's my cousin.

10:38:26 23

Q. She was your cousin.

10:38:27 24

A. Yes.

10:38:28 25

Q. And was she right behind you?

10:38:30 1 A. Only because I read that do I remember that.

10:38:33 2 Q. Okay, so they took that down, is that accurate?

10:38:36 3 A. Yes.

10:38:36 4 Q. Okay, and you provided the Sheriff's Department with
10:38:40 5 her phone, or I guess their phone number more accurately,
10:38:44 6 is that right?

10:38:44 7 A. I guess.

10:38:46 8 Q. Now, if Heidi Allen was still at the store at 6:30
10:38:56 9 when you drove by, would that white van have any interest
10:39:01 10 to you do you think to the police?

10:39:03 11 MS. PEEBLES: Objection.

10:39:04 12 THE COURT: Based on?

10:39:06 13 MS. PEEBLES: Speculation.

10:39:07 14 THE COURT: Sustained.

10:39:09 15 MR. MOODY: I have no further questions,
10:39:12 16 Judge.

10:39:12 17 THE COURT: Any redirect?

10:39:14 18 MS. PEEBLES: Nothing. Thank you.

10:39:15 19 THE COURT: You did a nice job. You can step
10:39:18 20 down.

10:39:18 21 THE WITNESS: Thank you.

10:39:22 22 THE COURT: Ms. Peebles?

10:39:27 23 MS. PEEBLES: Tyler Hayes.

10:40:03 24 THE CLERK: Raise your right hand, put your
10:40:04 25 left on the Bible.

10:40:06 1 T Y L E R H A Y E S, Called as a witness, having been duly
10:40:14 2 sworn, was examined and testified as follows:

10:40:14 3 THE CLERK: Please state your name for the
10:40:15 4 record.

10:40:15 5 THE WITNESS: Tyler Hayes.

10:40:16 6 THE CLERK: Spell your first name.

10:40:18 7 THE WITNESS: T-Y-L-E-R.

10:40:19 8 THE CLERK: And your last name.

10:40:20 9 THE WITNESS: H-A-Y-E-S.

10:40:21 10 THE CLERK: Have a seat please.

10:40:23 11 THE COURT: Mr. Hayes, before we go forward,
10:40:25 12 I'm going to ask you do you consent to having your
10:40:27 13 testimony video and audio taped?

10:40:29 14 THE WITNESS: I'd rather not.

10:40:30 15 THE COURT: Thank you. Ms. Peebles?

10:40:34 16 MS. PEEBLES: Yes.

17 DIRECT EXAMINATION

18 BY MS. PEEBLES:

10:40:34 19 Q. Mr. Hayes, where are you currently employed?

10:40:36 20 A. I'm employed by Barber Corporation. It's a general
10:40:39 21 and civil contractor.

10:40:40 22 Q. What position do you hold there?

10:40:42 23 A. I'm a superintendent for 'em.

10:40:44 24 Q. And how long have you worked there?

10:40:46 25 A. Five years.

- 10:40:47 **1** Q. Do you live in the Oswego County area?
- 10:40:50 **2** A. I do.
- 10:40:51 **3** Q. And how long have you lived in the area?
- 10:40:53 **4** A. My whole life.
- 10:40:54 **5** Q. Have you ever been to a place called the Liberty
- 10:40:57 **6** Bell Tavern?
- 10:40:58 **7** A. I have.
- 10:40:59 **8** Q. And how often would you go to the Liberty Bell
- 10:41:02 **9** Tavern?
- 10:41:02 **10** A. Every now and again. It was only opened for a short
- 10:41:09 **11** time, so when I was home from college or whatever we
- 10:41:12 **12** would -- it was right up the road from my girlfriend's
- 10:41:14 **13** father's so we would go there every now and again.
- 10:41:17 **14** Q. Did you ever have a confrontation with anyone when
- 10:41:21 **15** you were at the Liberty Bell Tavern?
- 10:41:22 **16** A. I did.
- 10:41:23 **17** Q. I'm going to ask you some questions about a time
- 10:41:25 **18** when you were at the Liberty Bell Tavern in the year 2000.
- 10:41:30 **19** Do you recall having a confrontation with an individual
- 10:41:34 **20** named Michael Bohrer?
- 10:41:36 **21** A. Yes.
- 10:41:37 **22** Q. And do you recall approximately when that was?
- 10:41:46 **23** A. Looking back on it, I know it's been quite some --
- 10:41:53 **24** some time, I believe it was in November of 2000, it was
- 10:41:56 **25** my -- now, at the time it wasn't, I wasn't married, but now

10:42:02 1 it's my father-in-law's birthday and we were out
10:42:06 2 celebrating his birthday there.

10:42:07 3 Q. Now, so you were with a group of people?

10:42:09 4 A. Yes.

10:42:09 5 Q. That you recall.

10:42:10 6 A. Yes.

10:42:11 7 Q. And were people drinking?

10:42:13 8 A. Yes.

10:42:13 9 Q. And you were drinking?

10:42:15 10 A. I was.

10:42:15 11 Q. And can you explain what happened that night at the
10:42:20 12 Liberty Bell Tavern?

10:42:22 13 A. My wife and some of her friends were sitting at the
10:42:29 14 bar down on the far end there, and I was sitting with some
10:42:35 15 other friends and her father, and she came to me and said,
10:42:39 16 you know, this guy was bothering them at the end of the bar
10:42:45 17 about, you know, saying he had information about the Heidi
10:42:49 18 Allen case, so I went down to confront him to, you know,
10:42:54 19 kind of get him -- run him off, to get him away from my
10:42:58 20 wife and her friends because, you know, they were -- he was
10:43:01 21 bothering them, and he -- he told me that, you know, he had
10:43:09 22 information regarding the case, and I says yeah, I -- I --
10:43:15 23 I knew about the case, I says they -- they arrested two --
10:43:22 24 two people for it or whatever, and I couldn't remember the
10:43:25 25 names, and he said yeah, it was the Thibodeaus, he says

10:43:29 1 well, that's -- they're not the ones that did it. He says
10:43:33 2 I know who did it and I know the whereabouts of Heidi
10:43:36 3 Allen's body.

10:43:37 4 Q. Did you do anything with that information?

10:43:40 5 A. Yes, I --

10:43:41 6 Q. What did you do?

10:43:42 7 A. I called the police, let them know.

10:43:45 8 Q. Did you call the police that very day?

10:43:47 9 A. Yeah. When I got back to my father-in-law's I --

10:43:51 10 because I got thinking about it and I said if there, you

10:43:56 11 know, if this guy is not lying or whatever, somebody should

10:44:01 12 certainly know that there's, you know, an innocent man in

10:44:08 13 jail, and I thought that they -- at this time also, you

10:44:14 14 know, later in -- after the initial conversation, I had a

10:44:20 15 further conversation with him in the men's room, and he

10:44:25 16 was -- he was, you know, he got to sobbing and stuff like

10:44:28 17 that and was saying how, you know, he had dealt with, you

10:44:32 18 know, been dealing with this too long and he didn't want to

10:44:36 19 deal with it any more, and I said well, you know, if that's

10:44:39 20 the case, you really need to, you know, go talk to the

10:44:43 21 police, and so after he -- he left, he left the bar, I --

10:44:53 22 when I got back home to my father-in-law's I called the

10:44:57 23 police, I believe I called 911 just and told them what the

10:45:04 24 situation was and I -- I forget who they put me in touch

10:45:07 25 with, whether it was the sheriffs or the troopers, but I

10:45:11 1 recall giving a statement over the phone that night.

10:45:15 2 Q. Did you ever hear back from anyone from the Oswego
10:45:18 3 County Sheriff's Department after you made that phone call?

10:45:21 4 A. No, I did not.

10:45:23 5 Q. I'm going to hand you what's been marked as Defense
10:45:26 6 Exhibit 21 and ask you to look at that document.

10:45:31 7 (Whereupon, there was a pause in the
10:45:49 8 proceeding.)

10:45:49 9 Q. Is that the information you provided to the Oswego
10:45:52 10 County Sheriff's Department?

10:45:53 11 A. Yeah, yeah, I would say.

12 Q. Thank you.

10:45:57 13 A. I mean that's the gist of it.

10:45:59 14 Q. And you've never heard back from them since you gave
10:46:01 15 that in the year 2000, correct?

10:46:03 16 A. That is correct.

10:46:04 17 MS. PEEBLES: Thank you. No further
10:46:06 18 questions.

10:46:09 19 MS. BIANCO: One minute.

10:46:15 20 MS. PEEBLES: We'll offer that into evidence.
10:46:17 21 No objection to that, Your Honor, that's Exhibit 19.

10:46:20 22 THE COURT: Nineteen? I thought it was
10:46:22 23 Exhibit 21.

10:46:23 24 MS. PEEBLES: Or twenty-one, I'm sorry,
10:46:24 25 twenty-one.

10:46:24 1 THE COURT: No objection?

10:46:25 2 MR. OAKES: Actually can I just look at it for
10:46:27 3 a moment? I'm sure it is what it is.

10:46:29 4 THE COURT: Sure. Please approach, Mr. Oakes,
10:46:32 5 and retrieve it.

10:46:40 6 MR. OAKES: Thank you, Your Honor.

10:46:40 7 THE COURT: No objection?

10:46:41 8 MR. OAKES: No, not at all.

10:46:42 9 THE COURT: Twenty-one is in with no
10:46:44 10 objection.

11 (Defendant's Exhibit No. 21 was received in
12 evidence).

10:46:53 13 THE COURT: Mr. Moody, Mr. Oakes?

10:46:55 14 MR. OAKES: My turn.

10:46:57 15 CROSS-EXAMINATION

10:46:57 16 BY MR. OAKES:

10:46:58 17 Q. Good morning again, Tyler.

10:47:04 18 A. Good morning.

10:47:04 19 Q. In the interests of full disclosure, Tyler, you and
10:47:10 20 I went to school together?

10:47:11 21 A. Yes, sir.

10:47:11 22 Q. You're two years behind me?

10:47:13 23 A. Yep.

10:47:13 24 Q. And I graduated with your older brother Travis, is
10:47:17 25 that correct?

- 10:47:17 **1** **A.** That's correct.
- 10:47:18 **2** **Q.** How's he doing?
- 10:47:19 **3** **A.** He's doing good.
- 10:47:20 **4** **Q.** Good. Now Tyler, you said this was around November
- 10:47:22 **5** 2000 when you were out?
- 10:47:27 **6** **A.** Yeah. It was -- it was in November because it was
- 10:47:30 **7** my father-in-law's birthday and we were out for a few
- 10:47:34 **8** cocktails on his birthday.
- 10:47:35 **9** **Q.** How old would you have been at that time, Tyler?
- 10:47:37 **10** **A.** Twenty-three.
- 10:47:38 **11** **Q.** Okay, maybe a little wilder back then?
- 10:47:42 **12** **A.** Quite a bit actually, yeah.
- 10:47:45 **13** **Q.** Did you have a drink or two that night?
- 10:47:47 **14** **A.** Sure did.
- 10:47:48 **15** **Q.** By that point, the point you were talking with Mr.
- 10:47:53 **16** Bohrer, how many beers would you -- well, were you drinking
- 10:47:56 **17** beer?
- 10:47:56 **18** **A.** Probably, yes.
- 10:47:57 **19** **Q.** How many beers would you say you had?
- 10:47:59 **20** **A.** Boy, I mean hard to say. Fourteen years ago I mean
- 10:48:06 **21** I'm sure I probably had a few. I couldn't say accurately
- 10:48:11 **22** how many.
- 10:48:11 **23** **Q.** Okay, fair to say you might have been intoxicated at
- 10:48:15 **24** that point?
- 10:48:15 **25** **A.** This was early, this was soon as we got there so no,

10:48:19 1 I wasn't intoxicated. I'm sure I was drinking but I wasn't
10:48:22 2 intoxicated because it was -- it was actually early on when
10:48:26 3 we got there, and I stayed a bit later, you know, and
10:48:30 4 then -- and then left, so yeah, I'm sure I was drinking,
10:48:36 5 but I -- during that conversation was I intoxicated? I
10:48:41 6 don't think that I was too awful bad, no, because it was --
10:48:45 7 it was early on in the night.

10:48:46 8 Q. Okay, but you did keep drinking that night as the
10:48:51 9 night went on?

10:48:51 10 A. Yes.

10:48:51 11 Q. Maybe got intoxicated that night?

10:48:54 12 A. Chances are, yeah.

10:48:56 13 Q. Tyler, have you ever had the experience where you do
10:48:59 14 something and you get drinking and then maybe the next day
10:49:03 15 you don't recall it as well because you'd been drinking?

10:49:06 16 A. Oh, yeah, sure.

10:49:10 17 Q. Okay. Tyler, Ms. Peebles showed you Exhibit 21.

10:49:17 18 MR. OAKES: May I approach, Your Honor?

10:49:18 19 THE COURT: Absolutely.

10:49:19 20 Q. Thank you. Tyler, again, that -- you probably don't
10:49:26 21 know what it is, it's a lead sheet from the Sheriff's
10:49:29 22 Department.

10:49:29 23 A. Um hum.

10:49:29 24 Q. Basically when somebody calls in on a case they
10:49:33 25 write down the information. Would you look at the second

10:49:35 1 page of that and when you're set just let me know.

10:49:46 2 (Whereupon, there was a pause in the

10:49:50 3 proceeding.)

10:49:50 4 A. Yeah.

10:49:51 5 Q. And I think you told Ms. Peebles that second page

10:49:55 6 pretty fairly summarizes or captures what you told the

10:49:58 7 officer that night?

10:50:01 8 A. Yes.

10:50:02 9 Q. Okay. Actually I'm just going to steal it back from

10:50:07 10 you if I can. And again, it -- so in this lead sheet it

10:50:15 11 says, "Michael Bohrer was in Liberty Bell tonight bragging

10:50:19 12 he knows where Heidi's body is?"

10:50:21 13 A. Um hum.

10:50:23 14 Q. That's what it says?

10:50:23 15 A. I mean there -- like I say, it was quite a few years

10:50:26 16 ago, but that was certainly part of -- the main part of the

10:50:29 17 conversation, yes.

10:50:30 18 Q. Okay.

10:50:30 19 THE COURT: Could counsel please approach?

10:50:32 20 A. Seems as though it was more than that though.

10:50:34 21 THE COURT: Hold on, sir. Could counsel

10:50:35 22 please approach?

10:50:37 23 MR. OAKES: Certainly.

10:50:38 24 (Whereupon, there was an off the record

10:50:38 25 discussion at the bench).

10:51:59 1 THE COURT: I'm sorry, I did not mean to
10:52:02 2 interrupt you, Mr. Oakes.

10:52:03 3 MR. OAKES: No, perfectly fine, Your Honor.

10:52:05 4 Q. So Travis, again --

10:52:06 5 A. Tyler. It happens all the time.

10:52:09 6 Q. As you're older you look more like your brother
10:52:12 7 so -- Tyler, that was about thirteen years ago then when
10:52:16 8 that incident took place?

10:52:18 9 A. Closer to fourteen I would say wouldn't it?

10:52:23 10 Q. Yeah, actually fourteen.

10:52:25 11 A. November of 2000, yeah, a little over, about a
10:52:28 12 hundred and seventy months ago.

10:52:31 13 Q. How many days is that, rain man?

10:52:35 14 A. It take me a second.

10:52:38 15 Q. So it's been fourteen years. Would you say that
10:52:41 16 your memory may have faded a little bit over fourteen
10:52:44 17 years, might not recall things as well as you did fourteen
10:52:47 18 years ago?

10:52:47 19 A. No, but I mean in this case when somebody makes
10:52:50 20 admissions to a murder, it's not like oh, I forgot where I
10:52:54 21 put my car keys, that type of situation, so no, I mean yes,
10:52:58 22 but, you know, I'm certain -- I'm very clear on -- on what
10:53:01 23 was said that night because it was, you know, something
10:53:05 24 that, you know, is substantial, you know.

10:53:08 25 Q. Okay, and because it's substantial, because it's

10:53:11 1 important, you want to make sure to get it correct, right?

10:53:14 2 A. Yeah.

10:53:15 3 Q. Okay. Now Tyler, when the news broke this summer, I
10:53:20 4 think it was late July, the Post-Standard, Syracuse.com
10:53:24 5 started running a bunch of articles, you saw it online or
10:53:29 6 in the news?

10:53:29 7 A. Um hum.

10:53:30 8 Q. And did that trigger the memory of this event for
10:53:33 9 you?

10:53:33 10 A. No. What actually triggered the memory was my wife
10:53:37 11 saw it on the news and she said remember that time that
10:53:40 12 fellow, because I didn't really know, I don't know the guy,
10:53:43 13 I knew that he owned a computer store across the tracks
10:53:47 14 from my father-in-law's place, and she said remember that
10:53:51 15 guy that time at the Liberty Bell? He's the one that
10:53:55 16 said -- he made those admissions of the Heidi Allen case,
10:53:58 17 he's on the news. I said you got to be kidding me. So
10:54:01 18 from there, I then read the papers and everything like
10:54:03 19 that, and then, you know, that's when I contacted your
10:54:06 20 office as well as Investigator Peebles.

10:54:12 21 Q. Okay, and actually you met with Ms. Peebles and gave
10:54:16 22 her an affidavit regarding this case, correct?

10:54:19 23 A. I did.

10:54:20 24 Q. And when you met with Ms. Peebles and gave the
10:54:27 25 affidavit --

10:54:30 1 MR. OAKES: Actually may I have it marked
10:54:32 2 please?

10:54:32 3 (People's Exhibit H was marked for
10:54:58 4 identification).

10:54:58 5 Q. Now Tyler, back up for a moment. Again, you said
10:55:02 6 the gentleman, Mr. Bohrer, made a number of statements in
10:55:05 7 the Liberty Bell?

10:55:06 8 A. Um hum.

10:55:06 9 Q. Again, he indicated to you I think you said that he
10:55:09 10 had info on the case?

10:55:11 11 A. Yeah. Well, he said he knew the whereabouts of
10:55:15 12 Heidi Allen's body was one thing he said, and he also made
10:55:19 13 admissions that he knew, you know, who killed her.

10:55:23 14 Q. Okay, did he tell you who had killed her?

10:55:26 15 A. No.

10:55:26 16 Q. Did he say that he had killed her?

10:55:28 17 A. No.

10:55:28 18 Q. Did he say that he personally participated in it?

10:55:31 19 A. No.

10:55:31 20 Q. Again, when he said that he knew where she was
10:55:35 21 buried, did he say where?

10:55:36 22 A. No.

10:55:36 23 Q. Did he say who put her there?

10:55:38 24 A. No.

10:55:38 25 Q. Did he explain to you what his personal basis of

10:55:42 1 knowledge was, how he knew that?

10:55:44 2 A. No. I mean no. He just, you know, that's why, you
10:55:49 3 know, for the most part, when this all occurred in the bar,
10:55:53 4 it was like it was upsetting to people, people didn't want
10:55:56 5 to hear it, you know.

10:55:58 6 Q. Absolutely.

10:55:59 7 A. And that was the, you know, ultimately is why he
10:56:05 8 left because I actually said hey, I think it would be in
10:56:07 9 your best interest to probably leave.

10:56:10 10 Q. Did you say that quietly?

10:56:12 11 A. I don't know if it was quite that quietly, but it
10:56:17 12 was -- it was assertive.

10:56:19 13 Q. You made your point.

10:56:20 14 A. Yeah.

10:56:21 15 Q. Tyler, aside from that night, you ever been in bars
10:56:26 16 any other nights drinking?

10:56:28 17 A. Sure.

10:56:29 18 Q. You ever been out to a bar and had a loud mouth at
10:56:33 19 the end of the bar who is talking about stuff?

10:56:34 20 A. Yep.

10:56:35 21 Q. Maybe just talking about stuff that he's got no idea
10:56:38 22 what in the world he's talking about but he's just kind of
10:56:42 23 running his mouth?

10:56:43 24 A. Sure.

10:56:44 25 Q. Okay. Tyler, again, you met with Ms. Peebles I

10:56:49 1 think it was July twenty-ninth of 2014 about this case,
10:56:53 2 correct?

10:56:54 3 A. It could have been, yeah, I know it's sometime in
10:56:57 4 the summer. I don't know the exact date.

10:56:59 5 Q. And Tyler, if I showed you your affidavit, would it
10:57:05 6 refresh your recollection?

10:57:06 7 A. Sure.

10:57:06 8 Q. Okay. Actually I'll just leave that for you, Tyler.
10:57:18 9 Tyler, you met with Ms. Peebles herself?

10:57:21 10 A. Yes.

10:57:22 11 Q. Attorney Peebles, okay. And did she explain to you
10:57:25 12 the importance of this case and that she's representing Mr.
10:57:28 13 Thibodeau?

10:57:29 14 A. She didn't go into depth about any importance of the
10:57:35 15 case, she just, you know, asked me if I would sign an
10:57:40 16 affidavit on -- on what I knew of the case.

10:57:43 17 Q. Okay, who typed up the affidavit?

10:57:46 18 A. I have no idea.

10:57:47 19 Q. Okay, was it typed in your presence or while you
10:57:51 20 were there?

10:57:51 21 A. Actually, no, it was not typed in my presence while
10:58:00 22 I was there. I spoke with her prior to that, and she typed
10:58:06 23 up this, met me, discussed -- discussed the affidavit with
10:58:10 24 me, and then if it was accurate, had me sign it.

10:58:16 25 Q. Okay, and she explained to you that because it was

10:58:19 **1** going to be filed in court proceedings, she wanted you to
10:58:21 **2** review it to make sure it was accurate?

10:58:23 **3** **A.** Yes.

10:58:23 **4** **Q.** You read it, Tyler?

10:58:24 **5** **A.** I did.

10:58:25 **6** **Q.** Okay, and actually your mom works as a legal
10:58:28 **7** secretary doesn't she?

10:58:29 **8** **A.** She does.

10:58:29 **9** **Q.** So you understand the importance of documents like
10:58:32 **10** this and it's important to get them right?

10:58:34 **11** **A.** Um hum.

10:58:35 **12** **Q.** Okay, and again, that document that's in front of
10:58:37 **13** you, you reviewed it and read it before you signed it?

10:58:40 **14** **A.** I did.

10:58:40 **15** **Q.** Because you knew it was important?

10:58:42 **16** **A.** Um hum.

10:58:43 **17** **Q.** Okay. Tyler, where in your affidavit did you put
10:58:47 **18** that Mr. Bohrer said the Thibodeaus weren't guilty or the
10:58:52 **19** Thibodeaus weren't involved. Is that in your affidavit?

10:58:55 **20** **A.** No, that's not in there.

10:58:56 **21** **Q.** Okay, and again, you testified today that at one
10:59:01 **22** point later he was sobbing to you, said he was dealing with
10:59:05 **23** this too long, he didn't want to deal with it any more.

10:59:08 **24** Can you show us where is that in your affidavit?

10:59:10 **25** **A.** That wasn't in there either. I -- I didn't get

10:59:13 1 in -- it wasn't in depth, I didn't get that far in depth
10:59:18 2 with the affidavit when I reported that to her, I just told
10:59:21 3 her the gist of what I knew on -- on the affidavit.

10:59:29 4 Q. But when you spoke with Ms. Peebles, certainly she
10:59:32 5 had asked you questions, "did he say anything more, did he
10:59:35 6 say anything else," she asked you those types of questions
10:59:37 7 didn't she?

10:59:39 8 A. She -- she asked me what, you know, what I knew and
10:59:45 9 I told her. She didn't really continue to ask me if I knew
10:59:48 10 any more, no.

10:59:49 11 MR. OAKES: Okay. Okay. No further
10:59:52 12 questions, Tyler. Thank you. Actually can I grab that
10:59:54 13 from you please?

10:59:54 14 THE WITNESS: Sure.

10:59:56 15 MR. OAKES: Thank you.

10:59:57 16 THE WITNESS: Um hum.

10:59:59 17 MS. PEEBLES: No further questions.

11:00:00 18 THE COURT: Okay, any objection to moving in?

11:00:03 19 MS. PEEBLES: No objection.

11:00:04 20 THE COURT: Okay.

11:00:06 21 MR. OAKES: Oh, actually I wasn't even
11:00:09 22 offering it, Your Honor. For some reason I was
11:00:11 23 thinking it was accepted.

11:00:13 24 THE COURT: Okay.

11:00:14 25 MR. OAKES: Thank you.

11:00:16 1 THE COURT: You can step down, sir.

11:00:18 2 THE COURT: Ms. Peebles?

11:00:20 3 MS. PEEBLES: We're going to call Mr. Steen

11:00:28 4 next so --

11:00:29 5 THE COURT: Mr. Miles, is your client ready?

11:00:31 6 MR. MILES: Judge, I'd like a couple minutes

11:00:32 7 with him.

11:00:33 8 THE COURT: So why don't we recess. Ten

11:00:36 9 minutes enough, Mr. Miles?

11:00:37 10 MR. MILES: Yes.

11:00:38 11 THE COURT: Ten minutes? Ten after eleven?

11:00:41 12 MS. PEEBLES: That's fine, Judge.

11:00:42 13 (Whereupon, there was a recess.)

11:13:25 14 THE COURT: Everybody ready?

11:14:06 15 MS. BIANCO: Yes, Your Honor.

11:14:07 16 THE COURT: Ms. Bianco, call your witness

11:14:09 17 please.

11:14:09 18 MS. BIANCO: James Steen. I'm not sure if the

11:14:12 19 microphone is on.

11:15:03 20 THE COURT: Mr. Steen, we're having a

11:15:04 21 technical problem right now. Hold on please, sir.

22 (Whereupon, there was a pause in the

11:16:37 23 proceeding).

11:16:37 24 THE COURT: Mr. Steen, please stand up, sir.

11:16:40 25 THE CLERK: Raise your right hand the best you

- 11:16:43 1 can, put your left on the Bible.
- 11:16:45 2 J A M E S S T E E N, Called as a witness, having been duly
- 11:16:52 3 sworn, was examined and testified as follows:
- 11:16:52 4 THE CLERK: Please state your name for the
- 11:16:54 5 record.
- 11:16:54 6 THE WITNESS: James Steen.
- 11:16:55 7 THE CLERK: Spell your last name.
- 11:16:57 8 THE WITNESS: S-T-E-E-N.
- 11:16:59 9 THE CLERK: Have a seat please.
- 11:17:00 10 THE COURT: Mr. Steen, before we go any
- 11:17:01 11 further, I'm going to ask whether or not you consent to
- 11:17:03 12 having your testimony video and audio taped.
- 11:17:07 13 THE WITNESS: I don't see why not.
- 11:17:08 14 THE COURT: Is that an acceptance of the --
- 11:17:10 15 THE WITNESS: Yes, that's fine.
- 11:17:11 16 THE COURT: Thank you.
- 17 DIRECT EXAMINATION
- 11:17:14 18 BY MS. BIANCO:
- 11:17:14 19 Q. Good morning, Mr. Steen.
- 11:17:16 20 A. Good morning.
- 11:17:16 21 Q. Do you also go by the nickname Thumper?
- 11:17:19 22 A. Yes.
- 11:17:20 23 Q. And you're currently serving a life sentence right
- 11:17:22 24 now, is that correct?
- 11:17:23 25 A. Yes, ma'am.

- 11:17:24 1 Q. And you were convicted of murder in the first degree
11:17:27 2 for killing your wife, Vickie Steen, is that right?
- 11:17:30 3 A. Yes, ma'am.
- 11:17:31 4 Q. You shot her in the chest with a shotgun, correct?
- 11:17:34 5 A. Yes, ma'am.
- 11:17:35 6 Q. You were also convicted of murder in the second
11:17:38 7 degree for killing your cousin, Chuck Carr, Jr., is that
11:17:42 8 right?
- 11:17:42 9 A. Yes.
- 11:17:43 10 Q. And you shot him in the back of the head, is that
11:17:46 11 right?
- 11:17:46 12 A. That's where, yeah, he was shot, yeah.
- 11:17:49 13 Q. And these crimes that you were convicted of occurred
11:17:52 14 on September twelfth, 2010, is that right?
- 11:17:55 15 A. Yes, ma'am.
- 11:17:56 16 Q. Before going to prison, you lived in Oswego County,
11:17:59 17 correct?
- 11:17:59 18 A. Yep, ten months.
- 11:18:01 19 Q. Pardon? For ten months?
- 11:18:04 20 A. In the jail? Is that what you're talking about?
- 11:18:05 21 Q. No. Before going to prison, you actually -- before
11:18:08 22 going to jail, you actually lived in Oswego County.
- 11:18:11 23 A. Yes, ma'am.
- 11:18:11 24 Q. And you lived there your entire life?
- 11:18:14 25 A. Yes, ma'am.

11:18:15 1 Q. And you had worked at Roth Steel before you were
11:18:19 2 arrested for your wife's murder, correct?

11:18:21 3 A. Yes, ma'am.

11:18:22 4 Q. And you were also doing some work buying and
11:18:26 5 scrapping vehicles for a number of years, is that right?

11:18:28 6 A. For -- no, I started scrapping for myself when I
11:18:32 7 went to work for Roth Steel. That's when I first made my
11:18:35 8 own -- got my own tow truck made and I had -- I built two
11:18:38 9 myself out of pickup trucks and then I bought the
11:18:42 10 International and then I had two Ford rollbacks.

11:18:45 11 Q. Yes or no, did you do some scrapping --

11:18:48 12 A. Before I went to Roth Steel, no.

11:18:51 13 Q. -- in 1994.

11:18:52 14 A. No.

11:18:52 15 Q. Never did any kind of scrapping work.

11:18:54 16 A. I worked for Phil White. He hauled scrap cars for
11:18:58 17 Murtaugh, but that's all, I just drove truck, I wasn't
11:19:02 18 scrapping.

11:19:02 19 Q. So you drove truck and for this other person and
11:19:05 20 scrapped vehicles at Murtaugh's, is that your testimony?

11:19:07 21 A. I did not scrap vehicles, no, I did not scrap cars.

11:19:10 22 Q. Okay.

11:19:11 23 A. Or any kind of scrap back then. I just hauled for
11:19:15 24 them to wherever it got hauled.

11:19:18 25 Q. Yes or no, have you ever been to Murtaugh's scrap

- 11:19:22 1 yard in 1994?
- 11:19:23 2 A. Yeah.
- 11:19:24 3 Q. Okay.
- 11:19:25 4 A. I used to haul their scrap.
- 11:19:26 5 Q. In 1994 you hauled Murtaugh's scrap.
- 11:19:29 6 A. As far as I can remember, I don't know if it was
- 11:19:31 7 after ninety-four or -- I know I worked for them in the
- 11:19:35 8 nineties, how's that?
- 11:19:36 9 Q. Fair enough. I want to talk to you about some of
- 11:19:39 10 your associates in 1994. You knew who Heidi Allen was, is
- 11:19:45 11 that correct?
- 11:19:45 12 A. I knew who she was but I didn't know Heidi.
- 11:19:48 13 Q. Well, you knew she worked at the D&W, is that right?
- 11:19:51 14 A. No, I did not.
- 11:19:52 15 Q. Okay, you had been at the D&W prior to Heidi Allen's
- 11:19:57 16 abduction, correct?
- 11:19:57 17 A. Never.
- 11:19:58 18 Q. Pardon?
- 11:19:58 19 A. Never.
- 11:19:59 20 Q. You had never ever been to --
- 11:20:01 21 A. Been to the D&W at all.
- 11:20:03 22 Q. Never?
- 11:20:03 23 A. Till after all that happened.
- 11:20:06 24 Q. I'm sorry, you went after but not before?
- 11:20:07 25 A. Never was there before Heidi Allen abduction was

11:20:11 1 there, I never was over there.

11:20:12 2 Q. Okay.

11:20:13 3 A. Maybe I was when I was hauling. No, it was after
11:20:15 4 Heidi too because I was hauling logs for Jeff Prentiss and
11:20:20 5 we were taking them to Duell (ph) Sawmill, and Duell's
11:20:23 6 owned it, and that's where they bought me lunch.

11:20:25 7 Q. So prior to 1990 -- prior to Heidi's abduction, is
11:20:29 8 it your testimony that you had never been in the D&W
11:20:32 9 Convenience Store?

11:20:33 10 A. Not that I know of.

11:20:36 11 Q. Well, you knew Heidi Allen's boyfriend, Brett Law,
11:20:40 12 is that correct?

11:20:40 13 A. We went to school.

11:20:42 14 Q. And did you know that Heidi Allen was a confidential
11:20:45 15 informant for the police?

11:20:46 16 A. No clue.

11:20:47 17 Q. Did you tell some of your friends that she was a
11:20:52 18 rat?

11:20:53 19 A. Not that I know of.

11:20:55 20 Q. You saying not that I know of. Are you saying you
11:20:58 21 don't remember or you never said it?

11:21:00 22 A. Far as I know I never said it.

11:21:03 23 Q. You were friends with a person named Rich Murtaugh
11:21:06 24 in 1994, correct?

11:21:08 25 A. Yeah.

11:21:08 1 Q. And you remained friends with him up and until the
11:21:12 2 time of your arrest for your wife's murder, correct?

11:21:14 3 A. No, we've -- we weren't really -- I wouldn't call it
11:21:17 4 that, I worked -- I worked for Phil White that worked for
11:21:19 5 Rich Murtaugh, that's how where that landed.

11:21:22 6 Q. And you had Rich Murtaugh's phone number in your
11:21:27 7 phone at the time of your wife's murder, correct,
11:21:29 8 programmed in your phone?

11:21:31 9 A. I don't know if it was or not. Had a lot of numbers
11:21:35 10 in there. Murtaugh's Recycling might have been in there
11:21:38 11 because that's when I was scrapping. The only reason
11:21:40 12 Murtaugh's recycling would have been in there for price
11:21:43 13 checks. You call all the scrap yards, find out who's
11:21:46 14 paying what, so I had a lot of numbers in my phone.

11:21:49 15 Q. So you had called Murtaugh's scrap yard a number of
11:21:52 16 times, would that be fair to say?

11:21:53 17 A. Yeah, you can say that, yeah, price checking.

11:21:55 18 Q. And Rich Murtaugh's family owned that junkyard,
11:22:01 19 correct?

11:22:01 20 A. As far as I know, yeah.

11:22:02 21 Q. And you knew that the Murtaughs had a contract with
11:22:08 22 a scrap yard in Canada, is that right?

11:22:11 23 MR. OAKES: Objection. Your Honor. Mr. Steen
11:22:15 24 is the defense witness.

11:22:17 25 THE COURT: You're asking an awful lot of

11:22:19 1 leading questions. You haven't asked him to be
11:22:21 2 qualified as hostile.

11:22:23 3 MS. BIANCO: Well, Judge --

11:22:24 4 THE COURT: Hold on. He hasn't done anything
11:22:25 5 at this point regarding your questions that would allow
11:22:27 6 me to establish him as hostile. I'll sustain the
11:22:30 7 objection.

11:22:30 8 MR. OAKES: Thank you.

11:22:31 9 Q. Mr. Murtaugh, what was your knowledge about a -- the
11:22:37 10 Murtaughs hauling scrap, that junkyard hauling scrap to
11:22:43 11 Canada?

11:22:43 12 A. I'm Mr. Steen, not Mr. Murtaugh.

11:22:45 13 Q. I'm sorry.

11:22:46 14 A. And all is I did was took the scrap where I was told
11:22:50 15 to take it. We took it to Canada, we took it to Erie, we
11:22:52 16 took it to Rochester. Wherever I was told to take a load,
11:22:54 17 that's where I drove, and that's where the load went. I
11:22:57 18 didn't know where they were going until they told me where
11:22:59 19 they were going or where I was going to pick it up. We
11:23:02 20 picked up loads all over the state. Wherever they'd be
11:23:06 21 scrapping out yards, that's where we'd go. I was up in
11:23:09 22 Watertown, I was all over the place.

11:23:10 23 Q. So you had -- were you very familiar with the
11:23:13 24 scrapping procedure at Murtaugh's?

11:23:15 25 A. No. I just got told where to go.

11:23:17 1 Q. And you went?

11:23:18 2 A. I was a truck driver, I wasn't a scrapper, I
11:23:21 3 wasn't -- I drove truck for them. They said take that
11:23:24 4 truck to this yard, take it here, take it there. Usually
11:23:27 5 Phil White was telling me, not the Murtaughs. Phil worked
11:23:30 6 for them, I worked for Phil.

11:23:32 7 Q. Were you a user of marijuana in 1994?

11:23:38 8 A. Oh, yes. I smoked marijuana for a long time.

11:23:43 9 Q. Did you smoke marijuana with a Richard Murtaugh?

11:23:48 10 A. Oh, probably.

11:23:49 11 Q. Did you do cocaine with a Richard Murtaugh?

11:23:54 12 A. No, ma'am.

11:23:54 13 THE COURT: Time frame for both questions.

11:23:56 14 Q. 1994.

11:23:58 15 A. Yes for the marijuana, no for the cocaine.

11:24:02 16 Q. In the nineteen-nineties, were you using LSD?

11:24:07 17 A. No, ma'am.

11:24:08 18 MR. OAKES: Objection, Your Honor. Again,
11:24:10 19 with the leading, trying to give some latitude but --

11:24:14 20 MS. BIANCO: Your Honor, we --

11:24:15 21 THE COURT: Continues to be leading, and I'm
11:24:17 22 wondering where you're going with it to be honest with
11:24:19 23 you.

11:24:19 24 MS. BIANCO: Well, Your Honor, we are accusing
11:24:21 25 him of murdering this particular person.

11:24:22 1 THE COURT: No, you're not, you're assuming.
11:24:24 2 That's your position, okay. You have not asked for him
11:24:29 3 to be treated as hostile. Your questions have been all
11:24:32 4 leading to this point. He is your called witness. You
11:24:34 5 know, I know, there are certain rules regarding leading
11:24:37 6 questions when he is your witness, where a person is
11:24:40 7 your witness. Ask the appropriate form of question
11:24:43 8 please, okay?

11:24:44 9 Q. What drugs were you using in the nineteen-nineties
11:24:48 10 please?

11:24:48 11 A. Marijuana.

11:24:50 12 Q. Was that all?

11:24:51 13 A. In the early nineties, yes. It was late nineties
11:24:54 14 like ninety-eight, ninety-nine, two-thousand is when I
11:24:58 15 started using cocaine.

11:25:00 16 Q. In the early nineteen-nineties, did you deal in any
11:25:08 17 drugs?

11:25:09 18 MR. OAKES: Objection.

11:25:10 19 A. Just I sold a little weed here and there, but other
11:25:13 20 than that that's --

11:25:14 21 THE COURT: I'll allow it. Ms. Bianco, start
11:25:17 22 asking non-leading questions please.

11:25:18 23 THE WITNESS: Am I supposed to wait?

11:25:20 24 THE COURT: Hold on. All these questions are
11:25:21 25 very accusatory. He is your witness. You are bound by

11:25:24 1 the rules of evidence regarding your methodology of
11:25:27 2 questions. You agree with me.

11:25:28 3 MS. BIANCO: Your Honor, I'd ask that he be
11:25:30 4 declared hostile.

11:25:31 5 THE COURT: He's done nothing to this point
11:25:33 6 that I can declare him hostile.

11:25:35 7 Q. In 1994, could you tell us whether or not you were
11:25:42 8 friends with a person named Roger Breckenridge?

11:25:46 9 MR. OAKES: Objection again, Your Honor.

11:25:48 10 MS. BIANCO: I don't know how to ask it in a
11:25:50 11 non-leading way unless you want me to ask who his
11:25:53 12 friends are.

11:25:53 13 MR. OAKES: What was your relationship to
11:25:54 14 Roger Breckenridge.

11:25:55 15 THE COURT: I'll allow it, it's a foundational
11:25:57 16 question. Any question beyond it has to be in the
11:25:59 17 proper form. You can answer the question.

11:26:01 18 A. Yeah. I knew Roger from school.

11:26:03 19 Q. What was your relationship with Roger Breckenridge?

11:26:06 20 A. Acquaintances. I wouldn't call him a friend, but I
11:26:09 21 wouldn't call him an enemy.

11:26:10 22 Q. How often would you speak to Roger Breckenridge in
11:26:13 23 1994?

11:26:15 24 A. If I ran into him we'd say what's up. Other than
11:26:18 25 that, it wasn't like we were going out of our way to look

11:26:21 1 for each other.

11:26:22 2 Q. What if any drugs did you do with Roger

11:26:24 3 Breckenridge?

11:26:24 4 A. Like I said, I smoked weed back then. I smoked weed
11:26:28 5 with a lot of people.

11:26:28 6 Q. What about Roger Breckenridge?

11:26:30 7 A. Like I said, I smoked weed with a lot of people.

11:26:32 8 Q. Did you --

11:26:33 9 A. Yeah, I couldn't tell you everybody I smoked weed
11:26:37 10 with, but yeah, I -- I used to get high with a lot of
11:26:39 11 people. Smoking weed was a regular thing back then.
11:26:42 12 Everybody smoked weed.

11:26:44 13 Q. What about Roger Breckenridge? Did you smoke weed
11:26:48 14 with --

11:26:48 15 A. Yes.

11:26:48 16 Q. Are you familiar where Roger Breckenridge lived in
11:26:54 17 1994?

11:26:55 18 A. No.

11:26:56 19 Q. Did you know where his mother lived in 1994?

11:27:01 20 A. Exactly, no. I didn't know until later. I knew she
11:27:06 21 lived over in Texas at one time. She lived everywhere so I
11:27:09 22 didn't know.

11:27:11 23 THE COURT: Before you ask the next question,

11:27:12 24 I'm assuming you mean Texas, New York.

11:27:14 25 THE WITNESS: Yes, that's -- we're talking

11:27:15 1
11:27:16 2
11:27:18 3
11:27:24 4
11:27:26 5
11:27:28 6
11:27:30 7
11:27:31 8
11:27:40 9
11:27:42 10
11:27:45 11
11:27:46 12
11:27:50 13
11:27:51 14
11:28:01 15
11:28:07 16
11:28:09 17
11:28:11 18
11:28:15 19
11:28:17 20
11:28:20 21
11:28:24 22
11:28:32 23
11:28:34 24
11:28:35 25

about New York.

THE COURT: Thank you.

Q. Have you ever been to Ms. -- Roger Breckenridge's mother's home?

A. I was over to his mother's one time when she lived in Texas.

Q. Texas, New York?

A. Little Texas I should say, yeah, Texas, New York. And the only reason I was at her house is her house was next to the bar and I was at the bar and I walked over to her house and I seen her there.

THE COURT: Mr. Steen, no question before you right now, okay?

Q. Did you ever have a conversation with Roger Breckenridge regarding Heidi Allen's whereabouts?

MR. OAKES: Objection.

THE COURT: I'm going to sustain it.

MS. BIANCO: Judge, that's foundational.

THE COURT: No, it goes right to the heart of the case, it's not foundational, it's well beyond foundation.

Q. Have you had any conversations about Heidi Allen with anyone?

MR. OAKES: Same objection.

THE COURT: That's more foundational. I'll

11:28:37 1 allow that.

11:28:38 2 A. Can you explain that please? I don't understand
11:28:41 3 what you're saying.

11:28:42 4 Q. Have you had any conversations about Heidi Allen's
11:28:46 5 disappearance?

11:28:47 6 THE COURT: Before you answer that question,
11:28:49 7 can we have a time frame please? Are you talking 1994
11:28:53 8 or 2013?

11:28:54 9 MS. BIANCO: Well, I'd like to direct his
11:28:56 10 attention to 1994 through -- I'm looking at the
11:29:00 11 prosecutor's statement, the recent letter he gave me
11:29:02 12 regarding his admissions.

11:29:04 13 THE COURT: Okay.

11:29:06 14 MS. BIANCO: And I don't know when those were.
11:29:07 15 That's why I'm trying to inquire, Judge.

11:29:09 16 THE COURT: Mr. Oakes, wasn't that statement
11:29:11 17 given in December of 2014?

11:29:12 18 MR. OAKES: Your Honor, I guess I have a
11:29:14 19 question for foundation. Is Ms. Bianco referring to
11:29:18 20 the statement given to law enforcement or is she
11:29:20 21 referring to the letter I've recently disclosed to the
11:29:22 22 Court regarding the admissions at the state
11:29:25 23 correctional facility?

11:29:26 24 THE COURT: I'm assuming you want the state
11:29:27 25 correctional in December of 2014.

11:29:30 1 MS. BIANCO: That's the one, Your Honor.

11:29:32 2 MR. OAKES: I believe that's December

11:29:33 3 twenty-ninth of 2014, Your Honor.

11:29:35 4 THE COURT: So Ms. Bianco, you might want
11:29:37 5 to -- if you want an open ended, you can do twenty-two
11:29:39 6 years of whether or not he's ever spoken. If you want
11:29:40 7 to talk about specific --

11:29:42 8 MS. BIANCO: I'll start with this one.

11:29:43 9 THE COURT: Thank you.

11:29:43 10 Q. On December twenty-ninth, 2014, did you have a
11:29:48 11 meeting with the two prosecutors here and members of the
11:29:53 12 Sheriff's Department while you were in custody?

11:29:56 13 A. Yes, ma'am.

11:29:58 14 Q. Okay, and Mr. -- Investigator Pietroski was one of
11:30:05 15 those investigators?

11:30:06 16 A. I forget who was there but --

11:30:08 17 MR. MILES: Judge, I apologize. Can we
11:30:10 18 approach?

11:30:10 19 THE COURT: Sure. Mr. Miles is representing
11:30:14 20 Mr. Steen. Hold on just a second please.

11:30:47 21 (Whereupon, there was an off the record
11:31:52 22 discussion at the bench.)

11:31:52 23 THE COURT: Do you have a copy, Mr. Oakes?

11:31:53 24 MR. OAKES: Yes, Your Honor.

11:31:54 25 THE COURT: Mr. Miles, I'm going to have Mr.

- 11:31:55 **1** Steen and you go in the other room to speak. Officer,
11:32:05 **2** would you mind taking Mr. Steen back in the other room?
11:32:09 **3** Thank you, sir. Mr. Oakes, Ms. Peebles, five-minute
11:32:22 **4** recess?
11:32:23 **5** MS. PEEBLES: Sure.
11:32:24 **6** THE COURT: Five minutes, folks, while Mr.
11:32:26 **7** Miles can talk to his client.
11:37:16 **8** (Whereupon, there was a recess.)
11:38:07 **9** THE COURT: Can we have Mr. Steen again
11:38:08 **10** please? Mr. Steen, consider the fact that you're still
11:38:44 **11** under oath, okay?
11:38:46 **12** THE WITNESS: Yes, sir.
11:38:47 **13** THE COURT: Thank you. Ms. Bianco, when we
11:38:48 **14** left, you had made reference to December twenty-ninth
11:38:51 **15** statement that Mr. Steen allegedly gave to Mr. Oakes,
11:38:55 **16** Mr. Moody and two investigators, is that correct?
11:38:58 **17** MS. BIANCO: That is correct, Your Honor.
11:38:59 **18** THE COURT: Are you going to resume that line
11:39:00 **19** of questioning?
11:39:01 **20** MS. BIANCO: No mike.
11:39:05 **21** THE COURT: Try now.
11:39:07 **22** MS. BIANCO: Yes. Thank you.
11:39:08 **23** Q. Mr. Steen, you were talking about a meeting that you
11:39:13 **24** had on December twenty-ninth, 2014.
11:39:16 **25** A. Yes.

11:39:16 1 Q. Do you remember that question?

11:39:17 2 A. Yep.

11:39:18 3 Q. Okay, what did you tell the prosecutors and the two
11:39:23 4 investigators about Breckenridge's or the possibility of
11:39:30 5 Breckenridge's involvement with the disappearance of Heidi
11:39:33 6 Allen? What did you tell them?

11:39:35 7 A. Well, what was said that day is that I was driving,
11:39:37 8 that I worked driving hauling cars for Murtaugh's and that
11:39:41 9 I hauled a load, got back, and it was like two weeks later,
11:39:46 10 a week later, Roger came up to me and said something about
11:39:49 11 me hauling a stolen vehicle, a van, and I said okay. I
11:39:54 12 went and asked Rich Murtaugh if that happened. He said no.
11:39:58 13 That was that. Then we discussed farther that it was like
11:40:02 14 eight months after that, we were at a party and Roger
11:40:07 15 showed up, he was drunk, and he had mentioned something
11:40:09 16 about do you know what was in that van, and I said no, I
11:40:13 17 have no idea what was in that van, and he went on the part
11:40:16 18 about the remains of Heidi Allen. I went and asked Rich
11:40:19 19 Murtaugh the same question and he told me no, it wasn't.
11:40:23 20 So that's all that I've known about what Roger told me.

11:40:28 21 Q. And I want to direct your attention to this -- the
11:40:31 22 van. You said it was a van that you hauled?

11:40:33 23 A. Yep.

11:40:34 24 Q. Was that in 1994?

11:40:36 25 A. I didn't start working for Murtaugh's until I think

11:40:40 1 after that. I was working for Roger Allen driving dump
11:40:44 2 truck when Heidi was abducted, and Heidi was abducted in
11:40:48 3 ninety-four if I was correct. I've been trying to put this
11:40:51 4 all together because it's twenty years ago, and I didn't go
11:40:55 5 to work for Murtaugh's until after that because I can
11:41:01 6 remember working at Roger Allen's, like I told the DA and
11:41:03 7 the two sheriffs, that I can remember working for Roger
11:41:06 8 Allen, standing out on Allen Enterprise Ave. and talking to
11:41:10 9 guys I drove with and asking them was Heidi related to
11:41:13 10 Roger because Roger Allen, Heidi Allen, and they all said
11:41:18 11 no and --

11:41:22 12 Q. When you spoke to the prosecutors on December
11:41:26 13 twenty-ninth about what Mr. Breckenridge said to you, did
11:41:33 14 you clarify that this was not 1994?

11:41:36 15 A. We were never asked if it was ninety-four.

11:41:41 16 Q. Your conversation with Roger Breckenridge about the
11:41:47 17 van, precisely when was that?

11:41:49 18 A. Oh, God. Whenever I was working for Murtaugh's.
11:41:56 19 That would -- I -- I was going to have to -- I tried
11:42:02 20 figuring this out back then. I know I worked for --
11:42:07 21 driving dump truck in ninety-four, and then I went to work
11:42:10 22 for Murtaugh's after that, I don't know if I went to work
11:42:14 23 for Murtaugh's in the summer of ninety-four or the end of
11:42:17 24 ninety-four or the spring of ninety-five. It was in that
11:42:21 25 time span that -- when I went to work for them, and then

11:42:27 1 that's when Roger was working at Murtaugh's and I was
11:42:30 2 driving truck so that's how I seen him most of the time
11:42:32 3 because he was working there.

11:42:34 4 Q. You said that there were two conversations with Mr.
11:42:39 5 Breckenridge about this, is that right?

11:42:41 6 A. The first one was him telling me I hauled a stolen
11:42:44 7 vehicle.

11:42:45 8 Q. And the second one was where? Where was that
11:42:47 9 conversation and when was that?

11:42:48 10 A. Oh, at a party. I can't remember if it was on the
11:42:51 11 power lines or -- it's where everybody would go and there
11:42:53 12 would be a party and keg, you'd be drinking, it's a keg
11:42:59 13 party. I don't know if it was Happy Valley back then or
11:43:02 14 wherever we would be at.

11:43:03 15 Q. When was that conversation?

11:43:07 16 A. Oh, God, ninety-five, ninety -- late ninety-four,
11:43:11 17 early ninety-five, middle of ninety-five. I don't know
11:43:13 18 exactly, you know what I mean? I don't -- if I could
11:43:16 19 remember when I was working and where I was working, how,
11:43:19 20 when, that is when I could be more -- but I can't, I
11:43:22 21 don't -- sorry.

11:43:23 22 Q. Did you tell the prosecutors that Roger Breckenridge
11:43:29 23 made a number of comments about Heidi Allen's
11:43:32 24 disappearance?

11:43:33 25 A. I can remember hearing it over at Wescott's house a

11:43:37 1 couple of times, but other than that, everybody thought
11:43:40 2 Roger was just blowing steam, that's all he ever did.

11:43:43 3 Q. What did Roger say at Wescott's house and when about
11:43:47 4 Heidi Allen's disappearance?

11:43:48 5 A. I -- both -- I -- what exactly was ever said I
11:43:50 6 couldn't -- you don't listen to Roger. Roger starts piping
11:43:55 7 off, he's a -- how do I say this without getting in trouble
11:43:57 8 up here? A lot of hot air. You know what I'm saying?
11:44:01 9 He -- you never knew if he was telling you the truth. Why
11:44:04 10 do you think I went to Rich Murtaugh when he told me I
11:44:08 11 hauled a stolen vehicle. That's when I was trucking to
11:44:09 12 Canada with a stolen vehicle? I didn't want to go to
11:44:12 13 jail, I didn't want to go to jail back then, that's why I
11:44:13 14 went back to Rich Murtaugh and asked did I haul a stolen
11:44:17 15 vehicle and he told me no.

11:44:18 16 Q. How many different times did Roger Breckenridge
11:44:22 17 bring up the subject of Heidi Allen's disappearance with
11:44:26 18 you?

11:44:26 19 A. Oh, I know those two times, it could have been more
11:44:29 20 that I had heard it or whatever, I -- I never kept count.

11:44:32 21 Q. I want to direct your attention to the comments you
11:44:35 22 said were made at Wescott's house. Whose house is that?

11:44:38 23 A. It was Paul Wescott's, Jennifer Wescott's
11:44:42 24 father's.

11:44:43 25 Q. And who was present when those comments were made?

- 11:44:46 **1** **A.** Oh, I -- that was a long time ago. I don't know who
11:44:49 **2** was all there. It could have been her mother, the girls
11:44:53 **3** were probably there.
- 11:44:54 **4** **Q.** The girls. Who would the girls be?
- 11:44:56 **5** **A.** Jennifer, Missy, Jen.
- 11:44:59 **6** **Q.** Jen who?
- 11:45:00 **7** **A.** Wescott.
- 11:45:01 **8** **Q.** Okay.
- 11:45:02 **9** **A.** The Wescott girls.
- 11:45:03 **10** **Q.** Missy who?
- 11:45:04 **11** **A.** Wescott.
- 11:45:05 **12** **Q.** Okay.
- 11:45:05 **13** **A.** Jessica Wescott.
- 11:45:07 **14** **Q.** Anyone else?
- 11:45:08 **15** **A.** I don't know who'd all have been there. I don't --
- 11:45:11 **16** **Q.** Amanda Braley perhaps?
- 11:45:13 **17** **A.** Amanda could have been there. She was there
11:45:15 **18** different times, yeah, she was going out with Jen Lumley
11:45:18 **19** (ph). Jen Lumley could have been there. I don't know if
11:45:21 **20** they were and she said that I was there or not. I read
11:45:23 **21** that in the paper too. I don't know if I was there that
11:45:25 **22** day when he said that and Amanda was there. You could stop
11:45:29 **23** in there and somebody'd be there and somebody wouldn't be,
11:45:32 **24** you know what I mean, you don't know when -- the only
11:45:34 **25** reason Amanda would have been there if Jennifer would have

11:45:36 1 been there.

11:45:37 2 Q. How many times at this Wescott residence did

11:45:42 3 Breckenridge bring up this subject approximately?

11:45:46 4 A. I don't know. A couple times.

11:45:47 5 Q. Okay, what do you remember Roger Breckenridge saying

11:45:52 6 at the Wescott residence about the disappearance of Heidi

11:45:57 7 Allen?

11:45:57 8 A. Oh, that, I -- just about her being disappeared and

11:46:01 9 that would be about it. I don't know exactly, ma'am. I

11:46:05 10 couldn't tell you exactly what he said because I never --

11:46:07 11 like I just told you before, Roger Breckenridge is nothing

11:46:11 12 but a talker, big mouth. He runs his mouth all the time

11:46:14 13 looking for -- looking for attention. He's an attention

11:46:18 14 getter, that's how he got attention, okay, plain and

11:46:21 15 simple. That's why he would tell somebody like he told me

11:46:24 16 I hauled to get my reaction. Now he had my attention. And

11:46:29 17 I went and clarified that hopefully immediately, found out

11:46:33 18 if I was hauling a hot vehicle.

11:46:36 19 Q. What did you tell the prosecutors on December

11:46:39 20 twenty-ninth, 2004 about where you were told to take the

11:46:44 21 shipment in Canada?

11:46:46 22 MR. OAKES: Objection.

11:46:47 23 Q. What were you told?

11:46:48 24 MR. OAKES: I believe counsel may have

11:46:49 25 misspoke and said 2004 rather than 2014.

11:46:52 1 MS. BIANCO: 2014, I apologize.

11:46:54 2 MR. OAKES: I just want to be clear for the
11:46:56 3 record.

11:46:56 4 THE COURT: Could you please ask the question
11:46:58 5 with a proper date.

11:46:59 6 MS. BIANCO: Certainly, Judge.

11:47:00 7 Q. In 2014, during your interview with the prosecutors
11:47:03 8 and the two sheriffs, what did you tell them regarding the
11:47:09 9 shipment taken to the facility? In other words, was a
11:47:13 10 shipment taken directly to the shedder, the shredder, did
11:47:17 11 you say?

11:47:17 12 A. All shipments are taken directly to the shredder.
11:47:20 13 Some are stacked up out in the backyard, some are taken
11:47:22 14 right there and ran right through. I ran a step deck
11:47:26 15 trailer, so yeah, I backed up to the shredder and the crane
11:47:28 16 unloaded me.

11:47:29 17 Q. Did you tell them you were told to take the shipment
11:47:32 18 that Breckenridge was talking about --

11:47:35 19 A. I drove the step deck trailer, that's where I went.
11:47:37 20 I said if they would have -- like I told them that day, if
11:47:39 21 they would have put that van on my trailer, and Heidi would
11:47:42 22 have been in that van, that's where it would have went.
11:47:45 23 Right to the shredder. Plain and simple. That's what I
11:47:49 24 told them.

11:47:50 25 Q. Did you tell them, the prosecutors, that you were

11:47:55 1 told to take the shipment directly --

11:47:57 2 A. No.

11:47:57 3 Q. -- to the shredder?

11:47:59 4 A. No, no.

11:48:01 5 Q. When Roger made these comments to you about Heidi

11:48:16 6 Allen, you can think of at this point four different times

11:48:21 7 that this may have come up?

11:48:22 8 A. It probably was more, but you heard these comments

11:48:24 9 out of a lot of people. Everybody knew what happened to

11:48:27 10 Heidi back then. Everybody was talking like they knew what

11:48:30 11 happened to her but nobody knew anything.

11:48:32 12 Q. Was Roger talking about he knew what happened, like

11:48:35 13 he knew what happened to her?

11:48:37 14 A. Four, five, like I said, five, whenever, yeah.

11:48:41 15 Q. Okay, what did Roger say about what he knew happened

11:48:45 16 to her?

11:48:45 17 A. Ma'am, that was twenty years ago. I can -- didn't

11:48:50 18 you just ask me was I smoking weed back then? Oh, my God.

11:48:54 19 THE COURT: Mr. Steen, you don't get to ask

11:48:56 20 the questions, okay?

11:48:57 21 MS. BIANCO: Your Honor, I'd like to declare

11:48:58 22 the witness hostile at this time.

11:48:59 23 THE COURT: Not yet. Nice try.

11:49:04 24 A. It was twenty years ago. I can't remember exactly

11:49:07 25 what was --

11:49:07 1
11:49:08 2
11:49:11 3
11:49:12 4
11:49:17 5
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11:49:25 7
11:49:28 8
11:49:32 9
11:49:39 10
11:49:40 11
11:49:51 12
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11:50:12 17
11:50:16 18
11:50:20 19
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11:50:24 21
11:50:25 22
11:50:26 23
11:50:29 24
11:50:32 25

THE COURT: Mr. Steen, there is not a question presented to you. Ms. Bianco, your witness.

MS. BIANCO: Certainly.

Q. Was Roger someone you considered a friend?

A. No. More of an acquaintance than a friend.

Q. Would Roger's number have been in your phone contact list in 2010?

A. I don't think so. Jen's would have been.

MS. BIANCO: May I have a moment, Your Honor?

THE COURT: Sure.

(Whereupon, there was a pause in the proceeding.)

MS. BIANCO: May I approach the witness, Your Honor?

THE COURT: Absolutely.

Q. I'm showing the witness what's been marked as Defendant's Exhibit 45 which has been stipulated into evidence. I'd like you to look at the top of page twenty-four of your phone records.

THE COURT: You said exhibit -- Exhibit 45, Ms. Bianco?

MS. BIANCO: Forty-five, yes, Your Honor.

THE COURT: Thank you. Exhibit 45 moved in based on stipulation.

(Defendant's Exhibit No. 45 was received in

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11:51:12 10
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11:51:18 12
11:51:21 13
11:51:21 14
11:51:25 15
11:51:25 16
11:51:28 17
11:51:28 18
11:51:32 19
11:51:36 20
11:51:38 21
11:51:39 22
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11:51:42 24
11:51:43 25

evidence).

THE COURT: What page?

MS. BIANCO: That would be page twenty-three.

Q. Would that be Roger Breckenridge's phone number?

A. I don't know. It says Roger H. It doesn't say Roger Breckenridge. I have no idea.

Q. Now what you told the prosecutors in -- on December twenty-ninth, 2014, that wasn't the first time you were interviewed about this case was it?

A. Nope.

Q. Okay, were you interviewed by an Investigator Pietroski on June fourteenth, 2013?

A. Yes, ma'am.

Q. And what did you tell -- and you gave him a sworn statement?

A. Sworn statement said I had nothing to do with Heidi Allen's disappearance.

Q. Did you tell Investigator Pietroski or what did you tell Investigator Pietroski about the things that Roger Breckenridge said?

A. Back then?

Q. Back then.

THE COURT: Stop.

A. I don't believe I said anything.

THE COURT: No, stop. You mean back then in

- 11:51:46 1 terms of 1994 or back then in terms of 2013?
- 11:51:49 2 MS. BIANCO: June fourteenth, 2013 when he had
- 11:51:51 3 a -- when he spoke with Investigator Pietroski.
- 11:51:54 4 Q. What did you tell him regarding Roger Breckenridge?
- 11:51:59 5 A. Nothing I believe.
- 11:52:00 6 Q. Nothing?
- 11:52:00 7 A. I don't -- I can't remember. That was a year and a
- 11:52:03 8 half, two years ago.
- 11:52:04 9 Q. Would there be anything to refresh your recollection
- 11:52:06 10 like your sworn statement?
- 11:52:07 11 A. Show me the statement, yeah, and I'll, yeah, if I
- 11:52:10 12 signed it, I'm sure I said it.
- 11:52:20 13 MS. BIANCO: Ninety-four.
- 11:53:01 14 Q. Showing you what's been marked Exhibit 94.
- 11:53:06 15 THE COURT: That's Exhibit 94?
- 11:53:08 16 MS. BIANCO: Yes.
- 11:53:09 17 THE COURT: Thank you.
- 11:53:10 18 Q. Do you recognize this?
- 11:53:15 19 (Whereupon, there was a pause in the
- 11:53:17 20 proceeding.)
- 11:53:17 21 A. Yes, ma'am, I do. I told you that's what I said.
- 11:53:20 22 Q. There is nothing in that statement about what Roger
- 11:53:25 23 Breckenridge told you, correct?
- 11:53:26 24 A. This says, "I know nothing about anything that
- 11:53:28 25 happened to Heidi Allen," is what this statement said.

11:53:32 1 Q. And you were also interviewed on March fifteenth,
11:53:35 2 2013 by Investigator Pietroski, is that right?

11:53:39 3 A. Yes, ma'am.

11:53:40 4 Q. And did you tell Investigator Pietroski at that
11:53:44 5 time --

11:53:44 6 MR. OAKES: Objection, Your Honor.

11:53:45 7 THE COURT: Based on?

11:53:45 8 MR. OAKES: Impeaching her own witness.

11:53:48 9 THE COURT: I'm not sure if that's what she's
11:53:50 10 doing yet. Are you looking at another exhibit?

11:53:52 11 MS. BIANCO: I'm looking at another exhibit to
11:53:55 12 see if he remembers what he said.

11:53:57 13 THE COURT: What's the number of that exhibit?

11:53:59 14 MS. PEEBLES: That's not the correct number.

11:54:00 15 May we approach?

11:54:01 16 THE COURT: Sure.

11:54:02 17 (Whereupon, there was an off the record
11:55:02 18 discussion at the bench.)

11:55:02 19 THE COURT: No objection by the People, right,
11:55:03 20 Mr. Oakes?

11:55:03 21 MR. OAKES: No.

11:55:05 22 THE COURT: Okay.

11:55:30 23 (Defendant's Exhibit No. 44 was marked for
11:55:32 24 identification).

11:55:34 25 THE COURT: Ms. Bianco, for clarification

11:55:35 1 purposes, Exhibit 94 from the defense is a statement
11:55:37 2 given June thirteen by Mr. Steen, correct?

11:55:39 3 MS. BIANCO: That's correct, Your Honor.

11:55:41 4 THE COURT: And what has now been marked as
11:55:42 5 Exhibit 44 is a statement given by Mr. Steen in March
11:55:45 6 of 2013, correct?

11:55:46 7 MS. BIANCO: Yes, Your Honor. I think our
11:55:48 8 mikes are all off again.

11:55:49 9 THE COURT: I told you my technical problems.

11:55:54 10 Q. Mr. Steen, you spoke with the police on June
11:55:58 11 fifteenth of 2013?

11:55:59 12 A. Yes, ma'am.

11:56:00 13 Q. During that time, did you mention anything about
11:56:04 14 what Roger Breckenridge said to you in regards to Heidi
11:56:08 15 Allen?

11:56:08 16 A. I don't believe so. Maybe I did. You got the
11:56:11 17 statement there. I can't remember what I said, so once we
11:56:14 18 find out, I'll know if I did or didn't.

11:56:15 19 MS. BIANCO: Okay, may I approach, Your Honor?

11:56:17 20 THE COURT: Yes.

11:56:18 21 Q. Showing you Defendant's Exhibit 44, could you review
11:56:22 22 that?

11:56:23 23 THE COURT: Okay, hold on. Because you asked
11:56:25 24 about the June statement. That's Exhibit 94. Are you
11:56:28 25 now using a March exhibit to refresh his recollection

11:56:31 1 regarding June?

11:56:33 2 MS. BIANCO: No. He already answered that
11:56:34 3 question, Your Honor.

11:56:35 4 THE COURT: You just asked from that podium in
11:56:37 5 June, in the interview of June of 2013, did you make
11:56:39 6 any statements against -- about Roger Breckenridge. I
11:56:43 7 was waiting for an asked and answered objection, there
11:56:45 8 wasn't one, and now you're presenting a different
11:56:47 9 document. Are you asking him about the March thirteen
11:56:52 10 statement?

11:56:52 11 MS. BIANCO: I am about that right now, Your
11:56:54 12 Honor.

11:56:54 13 THE COURT: I want to clarify.

11:56:55 14 MS. BIANCO: Yes.

11:56:56 15 THE COURT: Okay.

11:57:00 16 A. Yep.

11:57:02 17 Q. Have you had an opportunity to read that?

11:57:04 18 A. Yes, ma'am.

11:57:05 19 Q. Did you say anything to Investigator Pietroski?

11:57:13 20 A. No, ma'am.

11:57:14 21 Q. Okay. So you -- you had given these two sworn
11:57:18 22 statements.

11:57:19 23 MS. BIANCO: I would offer Defendant's 44 and
11:57:22 24 Defendant's 94 into evidence.

11:57:24 25 THE COURT: No objection from the People?

11:57:26 1

MR. OAKES: Correct. We said that, yes.

11:57:28 2

THE COURT: Ninety-four and forty-four are in.

3

(Defendant's Exhibit No. 44 was received in

4

evidence).

5

(Defendant's Exhibit No. 94 was received in

11:57:33 6

evidence).

11:57:33 7

Q. When you gave the information about Roger

11:57:34 8

Breckenridge on December twenty-ninth, 2014, were you asked

11:57:41 9

to give a sworn statement?

11:57:42 10

A. No, ma'am.

11:57:43 11

Q. And this was the first time you mentioned Roger

11:57:53 12

Breckenridge out of the three interviews, correct?

11:57:56 13

A. Yes, ma'am.

11:57:57 14

Q. Before that, you denied knowing anything about Heidi

11:58:05 15

Allen's disappearance, correct?

11:58:08 16

A. Yes, ma'am.

11:58:09 17

Q. Going back to Roger Breckenridge, do you know who

11:58:16 18

Roger was dating in 1994?

11:58:20 19

A. I believe he was married and he just started seeing

11:58:24 20

Jennifer Wescott.

11:58:26 21

THE COURT: Let's stop right there. It's

11:58:27 22

noon, we're going to recess for lunch. This seems to

11:58:31 23

be another line you're going to pursue so this seems to

11:58:34 24

be the best time to break.

25

MS. BIANCO: Sure.

11:58:36 1 THE COURT: Mr. Steen, you're going to break
11:58:38 2 for lunch for a half hour. You're going to be
11:58:41 3 considered under oath when you return.

11:58:43 4 THE WITNESS: Yes, sir.

11:58:43 5 THE COURT: Court's recessed until one
11:58:45 6 o'clock.

11:58:46 7 (Whereupon, there was a recess).

01:02:24 8 MR. MOODY: Judge, could we approach for a
01:02:27 9 second?

01:02:27 10 THE COURT: Sure.

01:02:28 11 (Whereupon, there was an off the record
01:03:50 12 discussion at the bench.)

01:03:50 13 THE COURT: Okay, would you please have Mr.
01:03:56 14 Steen come back in please?

15 (Whereupon, there was a pause in the
16 proceeding).

01:04:26 17 THE COURT: Mr. Steen, have a seat please,
01:04:27 18 sir.

01:04:28 19 THE WITNESS: Yes, sir.

01:04:29 20 THE COURT: We're back on the record with
01:04:33 21 regard to the 440 motion filed by Gary Thibodeau. On
01:04:36 22 the stand is Mr. Steen. Mr. Steen, consider that
01:04:38 23 you're still under oath, sir, okay?

01:04:39 24 THE WITNESS: Yes, sir.

01:04:40 25 THE COURT: Ms. Bianco, your witness.

01:04:43 1 MS. BIANCO: Thank you, Judge.

01:04:44 2 Q. Mr. Steen, did you receive a letter from the Office
01:04:47 3 of the Federal Public Defender in April of 2014 requesting
01:04:53 4 a meeting?

01:04:53 5 A. Yes.

01:04:54 6 Q. Okay, did you respond to that letter?

01:04:56 7 A. No, ma'am.

01:04:57 8 Q. Because you did not want to talk with anyone from
01:05:00 9 the Office of the Federal Public Defender?

01:05:02 10 A. Yes, ma'am.

01:05:02 11 Q. Is that correct?

01:05:03 12 A. Yep.

01:05:03 13 MS. BIANCO: Your Honor, I'd ask that he be
01:05:05 14 considered hostile at this point because he refused to
01:05:07 15 talk with us in the past.

01:05:08 16 THE COURT: No, that's not how you qualify
01:05:11 17 someone as hostile witness. He's answered all your
01:05:14 18 questions here today.

01:05:15 19 Q. I'd like to go back to your police interview, your
01:05:19 20 first police interview on March fifteenth, 2013 and ask
01:05:26 21 what questions were you asked about Mr. Breckenridge on
01:05:30 22 that day?

01:05:32 23 A. Oh, well, I don't recall.

01:05:37 24 Q. Were you asked any questions about Mr. Breckenridge
01:05:39 25 on that day?

- 01:05:40 **1** **A.** Not that I know of.
- 01:05:43 **2** **Q.** Were you asked any questions about Mr. Michael
01:05:48 **3** Bohrer on that day?
- 01:05:49 **4** **A.** I believe, yes, both of them 'cause I was asked if I
01:05:52 **5** knew them, yes, that's right, because they were telling me
01:05:55 **6** they were there because of Tonya Priest making the
01:05:59 **7** allegation that me, Michael Bohrer and Roger Breckenridge
01:06:03 **8** are the ones that did this.
- 01:06:05 **9** **Q.** So you were asked about --
- 01:06:07 **10** **A.** I was asked that question --
- 11** **Q.** About Roger --
- 01:06:09 **12** **A.** If I knew them, yes.
- 01:06:11 **13** **Q.** And what did you tell them your knowledge of Roger
01:06:13 **14** Breckenridge was at that time?
- 01:06:15 **15** **A.** I told them I knew him.
- 01:06:16 **16** **Q.** Did you tell them anything else about Roger
01:06:19 **17** Breckenridge at that time?
- 01:06:20 **18** **A.** No, ma'am.
- 01:06:21 **19** **Q.** What did you tell them about Michael Bohrer on March
01:06:26 **20** fifteenth?
- 01:06:26 **21** **A.** Told them didn't know him.
- 01:06:28 **22** **Q.** You did not know him?
- 01:06:29 **23** **A.** Yes, ma'am.
- 01:06:30 **24** **Q.** What did you tell them about Jennifer Westcott if
01:06:33 **25** anything?

- 01:06:34 **1** **A.** Told them I knew her.
- 01:06:35 **2** **Q.** What else did you say about her?
- 01:06:37 **3** **A.** Roger's girlfriend I might have said. That's about
- 01:06:40 **4** it.
- 01:06:40 **5** **Q.** Did you mention anything about a conversation about
- 01:06:45 **6** Heidi Allen, about Heidi Allen's disappearance with
- 01:06:50 **7** Jennifer Wescott? Did you talk to the police about that?
- 01:06:53 **8** **A.** Not that I recall.
- 01:06:55 **9** **Q.** Were you asked where you were living on March
- 01:06:59 **10** fifteenth, 2013? Let me strike that. Were you asked where
- 01:07:02 **11** you were living in 1994 by the investigators on March
- 01:07:06 **12** fifteenth, 2013?
- 01:07:08 **13** **A.** I don't recall, but I don't -- I don't know. I
- 01:07:11 **14** can't remember. I don't think they did.
- 01:07:12 **15** **Q.** Where were you living in 1994?
- 01:07:15 **16** **A.** I believe -- I believe it was 103 County Route 35.
- 01:07:19 **17** **Q.** Okay, do you know for certain?
- 01:07:22 **18** **A.** That's a toss -- how would -- I, you know, that was
- 01:07:25 **19** twenty years ago, I don't know, I was here, there. I think
- 01:07:28 **20** I was at my mom's house on County Route 35.
- 01:07:31 **21** **Q.** Okay, what did you tell them about how you knew
- 01:07:35 **22** Heidi Allen on March fifteenth, 2013?
- 01:07:39 **23** **A.** I knew Heidi Allen as -- from school, I knew her,
- 01:07:44 **24** didn't know her know her, I just knew her by sight, I knew
- 01:07:46 **25** she was going out with -- jeeze, now I can't even remember

01:07:50 1 his name but you know who I'm talking about.

01:07:52 2 Q. Brett Law?

01:07:53 3 A. Yes, she was going out with Brett, and she got in a
01:07:56 4 fight out on the cliffs, at the cliffs at a party with
01:07:59 5 Diane Shelmadine (ph) and Diane was a friend of mine and I
01:08:02 6 remember that because that's who she got in a fight with
01:08:05 7 was Heidi.

01:08:05 8 Q. Were you present at the party?

01:08:06 9 A. Yeah.

01:08:07 10 Q. Have you ever had a discussion with Heidi?

01:08:09 11 A. Never.

01:08:10 12 Q. But you went to school with her?

01:08:12 13 A. She's younger than I am, but we all went to Mexico
01:08:16 14 High School.

01:08:16 15 Q. Earlier I asked you if you sold marijuana and you
01:08:25 16 said here and there. Who did you sell marijuana to?

01:08:28 17 A. A lot of people.

01:08:32 18 MR. OAKES: Objection, Your Honor. Foundation
01:08:34 19 as to time frame.

01:08:35 20 THE COURT: He answered that he did in the
01:08:37 21 past. I'll allow the question.

01:08:38 22 Q. In 1994, who did you sell marijuana to?

01:08:43 23 A. A lot of people. I don't know exactly. Back then
01:08:46 24 it was oh, jeeze, names are just -- just mostly friends.
01:08:51 25 I'd pick up -- probably Jeff Derby, Rodney.

01:08:58 1 Q. Rodney who?

01:08:59 2 A. I can't remember the guy's last name. These are
01:09:02 3 people I know, you know what I mean, there's a lot of
01:09:04 4 people you might know only one name. Steve, I don't know
01:09:06 5 his last name, there's a Scott, I -- there's different
01:09:11 6 people that -- there were just certain people that yeah,
01:09:14 7 they needed a bag and I'd get it for them. It wasn't like
01:09:16 8 I was a big dealer. I knew where to go get it and that's
01:09:19 9 what happened.

01:09:20 10 Q. Would you say you sold more than twenty-five -- to
01:09:24 11 more than twenty-five people?

01:09:25 12 A. No.

01:09:26 13 Q. Less than twenty-five?

01:09:27 14 A. Yes.

01:09:28 15 Q. Less than twenty?

01:09:29 16 A. Yeah.

01:09:30 17 Q. Less than ten?

01:09:32 18 A. Probably around ten.

01:09:33 19 Q. Okay, and where did you have these sales of
01:09:38 20 marijuana? Where in 1994, where would you sell it?

01:09:42 21 A. Wherever. If they wanted a bag, I'd go get them
01:09:45 22 one, bring it back to them.

01:09:47 23 Q. Where would you bring it to?

01:09:48 24 A. Where -- wherever we were at. If we were at a
01:09:51 25 party, that's where it would go down at. If it was

- 01:09:54 1 wherever, you know what I mean, it wasn't like it was a
01:09:56 2 planned out deal. If you see me, hey, can you get, yep,
01:09:59 3 boom, here you go.
- 01:10:00 4 Q. Would it be fair to say that sometimes it was in a
01:10:03 5 public place that you handed them the marijuana?
- 01:10:06 6 A. Not too often.
- 01:10:07 7 Q. Sometimes?
- 01:10:09 8 A. I might have then, but I couldn't -- we didn't party
01:10:13 9 in public places.
- 01:10:15 10 Q. Who did you get the marijuana from?
- 01:10:21 11 A. The man's dead now.
- 01:10:23 12 Q. Who was that?
- 01:10:24 13 A. Grover Bartell.
- 01:10:26 14 Q. Was that the only person you ever bought marijuana
01:10:29 15 from?
- 01:10:29 16 A. Oh, no.
- 01:10:31 17 Q. Did you ever buy marijuana from other people?
- 01:10:35 18 A. Yeah, a few other people, but not right -- few of
01:10:38 19 them I didn't know, a few of them I did know.
- 01:10:40 20 Q. I want to direct your attention to 1994.
- 01:10:43 21 A. Oh, then there was -- there wasn't many other people
01:10:45 22 besides Grover back then.
- 01:10:47 23 Q. Okay, was there any other person you bought
01:10:50 24 marijuana from at that time?
- 01:10:51 25 A. Not regularly, no. If maybe a bag here or there

01:10:55 1 from somebody like if I buy them a bag I'd ask them if they
01:10:58 2 can get me a bag.

01:11:00 3 Q. And who were those people?

01:11:01 4 A. Same people I just mentioned.

01:11:03 5 Q. Regarding your statement on June fourteenth, 2013
01:11:12 6 with the Investigator Pietroski, were you asked any

01:11:17 7 questions about Roger Breckenridge on that date?

01:11:20 8 A. I don't believe so.

01:11:22 9 Q. Were you asked any questions about Michael Bohrer on
01:11:26 10 that date?

01:11:27 11 A. I don't believe so. I was asked if I knew him.

01:11:30 12 That's about all I can remember that -- I don't believe we
01:11:33 13 went into depth in there, it was more about the allegations
01:11:37 14 against me.

01:11:38 15 Q. Okay, what did you tell him about the allegations
01:11:41 16 against you, what specifically?

01:11:42 17 A. They were not true.

01:11:45 18 Q. What were you asked about specifically on that day?

01:11:47 19 A. If I had -- if I did what Tonya said I had did and I
01:11:51 20 said no, I didn't do what Tonya said I did. They said that
01:11:55 21 I buried Heidi Allen's body under the cabin, I believe you
01:11:59 22 guys said on Rice Road, I told them no. They went and
01:12:03 23 searched, they didn't find Heidi Allen in the cabin. Like
01:12:06 24 I said, she was lying.

01:12:07 25 Q. That was in June fourteenth, 2013 that they

01:12:10 1 conducted a search?

01:12:12 2 A. No. June fourteen I told them she was lying then.

01:12:15 3 Q. Okay, how long was the interview on June fourteenth,
01:12:19 4 2013?

01:12:20 5 A. Oh, I don't know, an hour maybe because I was in a
01:12:22 6 hurry because I had a visit, my family was there at Auburn.

01:12:26 7 Q. What did you say if anything about Jennifer Wescott
01:12:32 8 to them on that day?

01:12:34 9 A. Not very much. I didn't say very much to them at
01:12:38 10 all about anybody.

01:12:39 11 Q. Well, what was the conversation about that day then?

01:12:42 12 A. Yeah, maybe I -- yeah, I knew her, Jennifer was his
01:12:46 13 girlfriend, that's about it. I didn't -- I was not -- how
01:12:50 14 do I -- I -- there wasn't a discussion there. I didn't
01:12:54 15 want to do them signed statements, and that's the reason I
01:12:57 16 signed them the way I did. I'm doing life without parole
01:13:00 17 in prison, lady. I am not a snitch, plain and simple, and
01:13:04 18 that's what I told them. I'm not going to sit here and
01:13:07 19 tell on people, and then when I read the paper, what Roger
01:13:09 20 Allen put in the paper, which Roger Breckenridge put in the
01:13:13 21 paper, that yeah, he picked up the van, that he -- well,
01:13:17 22 sure, that's what I was told. I told them I had nothing
01:13:20 23 to -- knowingly nothing to do with Heidi Allen's
01:13:22 24 disappearance and I had nothing knowingly to do with Heidi
01:13:26 25 Allen's disappearance because I didn't know if that van was

01:13:28 1 on the back of my truck. I didn't inspect my loads when I
01:13:31 2 went and delivered them. They were cabled, they were done,
01:13:35 3 I got in the truck, I drove, I dropped them off, I came
01:13:38 4 back. They were crushed cars.

01:13:39 5 Q. When you just said that you are not a snitch, is it
01:13:43 6 your testimony that you would not tell on anyone under any
01:13:47 7 circumstances?

01:13:48 8 A. Not any circumstance. I'm doing life without parole
01:13:51 9 in prison, so that circumstance, nope, you're not going to
01:13:54 10 see me tell on anybody.

01:13:56 11 Q. So if you had information about Roger Breckenridge
01:14:00 12 confessing to Heidi Allen, you would not tell because you
01:14:04 13 don't want to be a snitch.

01:14:05 14 A. I told them what I knew what Roger told us. Told
01:14:09 15 them.

01:14:10 16 Q. If you knew what happened to Heidi Allen and who was
01:14:14 17 responsible, would you tell?

01:14:18 18 A. No. But I don't know.

01:14:28 19 Q. Okay. I want to talk to you about a woman named
01:14:33 20 Jennifer Wescott.

01:14:35 21 A. Yep.

01:14:35 22 Q. How long have you known Jennifer?

01:14:37 23 A. Oh, I met her probably ninety-four, ninety-five. I
01:14:43 24 can't remember exactly.

01:14:44 25 Q. Who introduced you to Jennifer Wescott?

- 01:14:47 1 A. I believe it was -- we stopped at Roger's, me and
01:14:51 2 Paul Huggins (ph), and she was over there.
- 01:14:55 3 Q. She, Jennifer Wescott, was at --
- 01:14:57 4 A. Roger and Tonya, Roger and -- what's his wife's name
01:15:05 5 now?
- 01:15:05 6 Q. Tracey?
- 01:15:05 7 A. Tracey's house.
- 01:15:07 8 Q. So Jennifer was with Roger and Tracy?
- 01:15:09 9 A. Was at Roger and Tracey's house. I believe she was
01:15:13 10 her babysitter then. I don't know. That's where I met
01:15:15 11 her. I can remember that's where I met her.
- 01:15:17 12 Q. How long -- well, what was your relationship with
01:15:23 13 Jennifer Wescott?
- 01:15:24 14 A. No relationship at all.
- 01:15:28 15 Q. Were you friends?
- 01:15:29 16 A. After -- yeah, after a while, but not then we
01:15:32 17 weren't. I didn't know her really, I just met her, you
01:15:34 18 know what I mean? It's not like we were immediate friends
01:15:37 19 because I really didn't know her.
- 01:15:38 20 Q. When did you become friends with Jennifer Wescott?
- 01:15:41 21 A. Oh, probably a couple years after that.
- 01:15:44 22 Q. How long --
- 01:15:45 23 A. Maybe less than a couple years, a year. It wasn't
01:15:48 24 immediate, yeah, we're friends, you know what I mean?
01:15:52 25 That's --

01:15:53 1 Q. So would you say -- would it be fair to say you were
01:15:56 2 friends with her sometime in ninety-four or ninety-five?

01:16:01 3 A. All -- I can't remember when I actually met the
01:16:04 4 girl, okay? Like I've tried to remember all this, tried to
01:16:08 5 start -- start it up, and I couldn't say yes it was
01:16:11 6 ninety-four or ninety-five and I wouldn't -- I don't know
01:16:13 7 if that's when it was. It could have been late
01:16:16 8 ninety-four, it could have been early ninety-five, it could
01:16:19 9 have been late ninety-five. It was around that time, yes,
01:16:21 10 I kind of know that.

01:16:23 11 Q. How often would you -- would you hang around with
01:16:27 12 Jennifer Wescott?

01:16:29 13 A. Not very often. I'd see her at different places.
01:16:32 14 I'd be at Roger's brother's house, they'd stop by there.
01:16:36 15 I'd be at Jeff Derby's house, they'd stop by there, but
01:16:40 16 other than that, we didn't hang out as friends, not until
01:16:42 17 way later.

01:16:44 18 Q. Did you also hang out with her at her parents'
01:16:47 19 house?

01:16:47 20 A. That was later when my buddy Paul Huggins started
01:16:52 21 going out with her sister Jessica.

01:16:54 22 Q. Okay.

01:16:54 23 A. That was ninety-six, ninety-seven.

01:16:57 24 Q. And would you hang out with her very often after
01:17:01 25 ninety-six and ninety-seven?

01:17:02 1 A. It was acquaintance. If she was there, hey, what's
01:17:05 2 up, Jen, that's -- no. We never -- it wasn't like we went
01:17:07 3 out, went to the bar or nothing, no, that's -- no.

01:17:09 4 Q. Did you ever develop a good or close friendship with
01:17:13 5 her?

01:17:13 6 A. Yes, eventually, yes, I did, yep.

01:17:15 7 Q. And when was that?

01:17:16 8 A. When she was pregnant for her daughter.

01:17:21 9 Q. And would you spend some time with her?

01:17:23 10 A. Not really spend time time with her because me and
01:17:25 11 Roger, like I said, me and Roger were never friends, and I
01:17:28 12 just couldn't put up with Roger, so I wouldn't -- but Jen
01:17:32 13 was an okay girl, and yeah, I'm the one that brought Roger
01:17:35 14 to Oswego when she was having her baby 'cause he didn't
01:17:37 15 know she was in labor at the hospital. She called me.

01:17:40 16 Q. Did the police advise you when they met with you on
01:17:44 17 March fifteenth, 2013 about what Jennifer Wescott was
01:17:50 18 saying you did?

01:17:51 19 A. No.

01:17:52 20 Q. Were you ever advised on any of the times you met
01:17:56 21 with the police or the prosecutor what Jennifer Wescott was
01:18:01 22 saying that you did?

01:18:02 23 A. No. The only reason I knew what Jen said was in the
01:18:05 24 paper.

01:18:06 25 Q. So you were never spoken to by the police about

01:18:12 1 Jennifer Wescott's statement.

01:18:13 2 A. No, ma'am.

01:18:13 3 Q. You have to answer.

01:18:14 4 A. No, ma'am.

01:18:15 5 Q. Did you ever do drugs with Jennifer Wescott?

01:18:19 6 A. We smoked weed, yes.

01:18:21 7 MR. OAKES: Objection. Foundation as to when.

01:18:22 8 THE COURT: I'll allow it.

01:18:24 9 Q. When would that have been?

01:18:25 10 A. Back in ninety -- late nineties, early nineties,

01:18:30 11 middle nineties.

01:18:31 12 Q. Okay, did you ever do any other drugs with Jen

01:18:37 13 Wescott?

01:18:37 14 A. Not -- no.

01:18:40 15 Q. Are you certain of that?

01:18:41 16 A. Pretty certain.

01:18:43 17 Q. Did your friendship with Jennifer Wescott continue

01:18:51 18 after Roger and Jennifer split up?

01:18:54 19 A. Yes.

01:18:57 20 Q. In 2005, did you have an altercation with Roger

01:19:04 21 concerning Jennifer Wescott?

01:19:07 22 A. I believe it was at Jennifer's trailer out on -- I

01:19:11 23 can't remember the name of the road, it was out in -- I

01:19:13 24 don't even remember the name of the town either. Yes. He

01:19:16 25 showed up there.

01:19:17 1 Q. What happened during that confrontation?

01:19:19 2 A. He started screaming and hollering, and they ended
01:19:21 3 up backing across the road and got stuck. I ended up
01:19:25 4 pulling the van out of -- his brother's van out and Roger
01:19:28 5 took off running when the cops showed up because Jennifer
01:19:32 6 called the cops.

01:19:33 7 Q. Did he threaten you with any type of weapon that day
01:19:36 8 in 2005?

01:19:36 9 A. I didn't see no weapon. It was dark out there.

01:19:39 10 Q. Did you give a statement to the police in 2005
01:19:42 11 asking him to be arrested?

01:19:44 12 A. There was a -- I don't know if that was 2005, but
01:19:48 13 the night that he called my house and state troopers were
01:19:51 14 there and they heard him over the phone threatening me, I
01:19:54 15 ended up signing a statement at the state troopers barracks
01:19:57 16 that yeah, he did call and was threatening to burn my house
01:20:02 17 down and wreck my vehicles. Then I don't know if it was
01:20:03 18 2005 or not.

01:20:04 19 Q. Did he ever threaten you with a hammer?

01:20:07 20 A. I don't know.

01:20:10 21 Q. Would anything refresh your recollection like your
01:20:13 22 statement?

01:20:14 23 A. Sure.

01:20:16 24 THE COURT: Where are we going with this?

01:20:18 25 MS. BIANCO: We're talking about the

01:20:19 1 relationship between he and the parties, Judge.

01:20:24 2 MR. OAKES: Actually, Your Honor, I was going
01:20:26 3 to say objection on the grounds of relevance.

01:20:28 4 THE COURT: I'll allow a few more questions,
01:20:30 5 but this seemingly very sideline of questioning is
01:20:36 6 getting a little too broad.

01:20:41 7 MS. BIANCO: Will you allow me to show his
01:20:43 8 statement, Your Honor?

01:20:43 9 THE COURT: Yeah, for limited purpose that he
01:20:45 10 signed a statement. What's the date of the statement,
01:21:08 11 Ms. Bianco?

01:21:09 12 MS. BIANCO: Date of the statement would be
01:21:11 13 June ninth, 2005. It's part of Defendant's Exhibit 57,
01:21:19 14 but I'm showing him only statement -- only the
01:21:22 15 statement if I may.

01:21:23 16 THE COURT: That's fine.

01:21:25 17 MS. BIANCO: May I approach the witness, Your
01:21:26 18 Honor?

01:21:26 19 THE COURT: Sure, absolutely.

01:21:44 20 Q. Showing you what's been marked Defendant's Exhibit
01:21:49 21 57, could you read that to yourself, sir?

01:21:59 22 (Whereupon, there was a pause in the
01:22:00 23 proceeding).

01:23:55 24 Q. Have you had an opportunity to review that
01:23:57 25 statement?

- 01:23:58 1 A. Yes, ma'am.
- 01:23:59 2 Q. Okay, what --
- 01:24:00 3 A. I remember that night.
- 01:24:02 4 Q. What happened that particular night?
- 01:24:04 5 A. Like I told them in the statement, I said -- I asked
- 01:24:06 6 him if there was a hammer, nobody ever found a hammer that
- 01:24:10 7 night, so we didn't find out if there was a hammer in his
- 01:24:12 8 hand or not. I said all I seen was an object in his hand,
- 01:24:15 9 and that night, like I said, Jimmy and Roger showed up at
- 01:24:20 10 Jen's, and Roger was mad that I was there, and the only
- 01:24:22 11 thing I did was went there because her two kids were there
- 01:24:24 12 and she was there, she had no food, I brought food out to
- 01:24:28 13 her house. I was getting ready to leave when they showed
- 01:24:31 14 up. Like I said, I ended up pulling the van that Jimmy and
- 01:24:34 15 Roger were in out of the ditch across the road because
- 01:24:36 16 Jimmy backed it across the road.
- 01:24:40 17 Q. Was this the same night that he threatened to burn
- 01:24:42 18 your house down?
- 01:24:44 19 A. No, ma'am.
- 01:24:46 20 MR. OAKES: Objection, Your Honor.
- 01:24:47 21 THE COURT: Please approach. I'm going to
- 01:24:50 22 sustain the objection right now.
- 01:25:47 23 (Whereupon, there was an off the record
- 01:25:48 24 discussion at the bench).
- 01:25:48 25 THE COURT: I'll allow the line of questioning

01:25:50 1 for a few more questions over your objection, Mr.
01:25:52 2 Oakes, I note.

01:25:54 3 MR. OAKES: Thank you.

01:25:55 4 MS. BIANCO: You will allow me to continue for
01:25:57 5 a few more questions, Judge?

01:25:58 6 THE COURT: Tie something very quickly or else
01:26:02 7 it's done.

01:26:02 8 Q. Has Roger Breckenridge ever said to you that he
01:26:06 9 burned Heidi Allen's body?

01:26:07 10 A. Nope.

01:26:09 11 Q. Has he ever mentioned a fire in connection with
01:26:10 12 Heidi Allen?

01:26:11 13 A. I don't believe it ever came out of Roger's mouth.

01:26:15 14 Q. Whose mouth did it come out of?

01:26:16 15 A. I don't know. There was a story that was going
01:26:18 16 around Oswego County everywhere.

01:26:20 17 Q. Do you know who said that story?

01:26:21 18 A. Nope.

01:26:22 19 Q. Were you a participant in that discussion?

01:26:25 20 A. No, ma'am. Different discussions, yeah, I would
01:26:31 21 have been participant in. People back then in nineties
01:26:36 22 everybody was -- had their idea of what happened, what went
01:26:40 23 on.

01:26:40 24 Q. And you would talk about your own ideas about what
01:26:41 25 went on?

01:26:42 1 A. Just mostly listening. Like I was -- I was
01:26:45 2 twenty-four years old back then, I didn't even follow this
01:26:48 3 case on the news. I -- I knew it was going on because all
01:26:51 4 the searches, they were behind my mother's house four or
01:26:54 5 five times searching the area there. They were everywhere
01:26:57 6 searching.

01:26:58 7 Q. Your mother's house was located --

01:26:59 8 A. 103 County Route 35. In particular, no.

01:27:02 9 Q. And that's where you were living?

01:27:04 10 A. Yes, but they searched behind that house, they
01:27:06 11 searched behind every house on that road. It's a big open
01:27:09 12 area out there. They searched all over Oswego County.

01:27:14 13 Q. Did the police speak with you in 1994 about what
01:27:18 14 happened to Heidi Allen?

01:27:19 15 A. Nope.

01:27:19 16 Q. Did they ask you permission to search the property
01:27:22 17 in 1994?

01:27:23 18 A. They asked my mother, it was my mother's property.
01:27:25 19 They asked everybody when they were doing the search, and
01:27:28 20 everybody was more than welcome to let them go and have at
01:27:32 21 it.

01:27:33 22 Q. Were you present when the police spoke with your
01:27:35 23 mother?

01:27:35 24 A. No, I wasn't. I only know by my mother what my
01:27:39 25 mother told me that they asked her.

01:27:41 1 Q. Have you ever been to a place called Spinners in the
01:27:45 2 early nineties?

01:27:47 3 A. Spinners.

01:27:49 4 Q. Hotel slash bar?

01:27:52 5 A. Been in a lot of bars. I don't -- was it called
01:27:56 6 Spinners back then?

01:27:58 7 Q. Well, I'm asking you.

01:27:59 8 A. Is it called Spinners now? Is it -- this is what
01:28:03 9 I'm trying to --

01:28:03 10 Q. Back then in 1994, were you familiar with a place
01:28:05 11 called Spinners?

01:28:09 12 A. No, ma'am.

01:28:10 13 Q. It would have been across the street from the Heidi
01:28:15 14 Allen Center approximately.

01:28:19 15 A. There's no bar across the street from the Heidi
01:28:21 16 Allen Center.

01:28:22 17 Q. About a fourth of a mile.

01:28:26 18 A. The only bar that describe is just down the road
01:28:30 19 on -- it was 104 isn't it? It was next to the Heidi Allen
01:28:35 20 deal. I don't know the name of the place.

01:28:38 21 Q. Have you ever --

01:28:39 22 A. Was headed towards -- headed towards the store on
01:28:42 23 the right-hand side, there was an old bar there. I don't
01:28:45 24 know what the name of it was.

01:28:47 25 Q. Have you ever been to a place called Medspar

- 01:28:51 **1** Computer Repair?
- 01:28:53 **2** **A.** I believe that's where my wife brought her computer
- 01:28:57 **3** and I picked it up after it was repaired.
- 01:28:59 **4** **Q.** Who did you go to the computer store with?
- 01:29:02 **5** **A.** I was there by myself. I picked the computer up,
- 01:29:05 **6** paid for it and left. I paid the lady that was there and
- 01:29:08 **7** left.
- 01:29:09 **8** **Q.** Was a man named Carl Robinson there?
- 01:29:13 **9** **A.** Was Carl there? No, not that I know of.
- 01:29:16 **10** **Q.** Do you know Carl Robinson?
- 01:29:17 **11** **A.** Yeah, I know Carl, I sold him a trailer.
- 01:29:20 **12** **Q.** How long have you known Carl?
- 01:29:22 **13** **A.** Oh, I met him through my wife's father. Oh, I don't
- 01:29:30 **14** know exactly how long I've known him. Probably around the
- 01:29:35 **15** same time, nineties. He was a kid back then, used to hang
- 01:29:40 **16** out with Rod's kids.
- 01:29:42 **17** **Q.** Do you know if Carl was working in Medspar Computer
- 01:29:46 **18** business?
- 01:29:48 **19** **A.** I don't know what Carl was doing any time.
- 01:29:51 **20** **Q.** Do you know who owned Medspar?
- 01:29:54 **21** **A.** Only by the papers and being told by the DA when he
- 01:29:58 **22** came up.
- 01:29:59 **23** **Q.** Well, what did the DA tell you about Medspar?
- 01:30:02 **24** **A.** He asked me if I knew Mike Bohrer and Medspar
- 01:30:06 **25** Computer, and I said that's where my wife bought her

01:30:09 1 computer from, Mike Bohrer. I didn't know the name of it,
01:30:12 2 but then I knew it then.

01:30:13 3 Q. Did you have a conversation with Mike Bohrer?

01:30:16 4 A. No, ma'am. I've never met Mike Bohrer. My wife
01:30:21 5 bought the computer. I picked it up after it was repaired.
01:30:24 6 I paid a lady that was at the counter for the repairs,
01:30:27 7 picked the computer up and went home.

01:30:29 8 Q. Do you know a person named Rubin Sid Shaw?

01:30:34 9 A. Yes, ma'am.

01:30:35 10 Q. How do you know him?

01:30:37 11 A. I met Rubin through again, my wife's brother.

01:30:42 12 Q. And when was that?

01:30:43 13 A. When him and Tonya were living up in the trailer
01:30:46 14 park. Oh, I don't know. Oh, that was the late nineties I
01:30:51 15 believe. I'm not quite sure when I -- it was a long -- it
01:30:54 16 was a while ago, it was fifteen, twenty years ago. He was
01:30:58 17 married to Tonya then. She wasn't Priest then, she was
01:31:01 18 Shaw.

01:31:02 19 Q. In 1994, did you smoke marijuana with a Rubin Shaw?

01:31:10 20 A. I could have. I don't know if he was ever at
01:31:13 21 Rodney's when I was over at the trailer, if that was -- I
01:31:17 22 don't know. Could have, quite possible.

01:31:20 23 Q. Did you know Tonya Priest?

01:31:23 24 A. I didn't know either of them, just that they lived
01:31:25 25 next door to Shaggy, Rodney, I should say Rodney.

01:31:30 1 Q. In 1994 is it your testimony that you did not know
01:31:33 2 Tonya Priest?

01:31:33 3 A. I didn't -- I met them through Rodney. I did not
01:31:37 4 know them know them as people, you know what I mean?

01:31:40 5 Q. Did you later become more familiar with Tonya?

01:31:45 6 A. I know Tonya because of my wife. Other than that,
01:31:48 7 that's --

01:31:51 8 Q. Would Tonya come -- where were you living when you
01:31:54 9 were living with your wife?

01:31:55 10 A. In -- I forget the name of the trailer park. It was
01:31:59 11 up on 69 in Happy Valley.

01:32:03 12 Q. Were you married at the time to your wife?

01:32:05 13 A. No, we weren't.

01:32:07 14 Q. When did you get married to your wife?

01:32:09 15 A. Oh, two years later, a year later.

01:32:13 16 Q. So --

01:32:14 17 A. Somewhere around there.

01:32:15 18 Q. When did Tonya and your wife friend -- befriend each
01:32:21 19 other if you know?

01:32:22 20 A. Oh, they were friends before I -- they -- she knew
01:32:26 21 Rodney, Rodney -- Sid was related to, they're related like
01:32:31 22 cousins or something, I don't -- I don't know exactly.

01:32:34 23 THE COURT: Did you say Sid?

01:32:35 24 THE WITNESS: Yeah. That's what she called
01:32:36 25 him. Rubin Sid Shaw.

01:32:38 1 THE COURT: Sid Shaw, okay.

01:32:39 2 Q. Ruben Sid Shaw. Was Tonya ever over at your
01:32:47 3 trailer?

01:32:47 4 A. She was over to see my wife a lot, yes. I worked a
01:32:51 5 lot so I wasn't there a lot.

01:32:52 6 Q. How old were you when you met your wife?

01:32:58 7 A. Oh, 2005. 2004 is when we were together. I met her
01:33:06 8 back in -- around twenty-three, twenty-four years old, she
01:33:11 9 was twelve, thirteen then, I knew her dad, and then he
01:33:15 10 had his kids would come over on the weekend before he got
01:33:18 11 custody of his kids. That's how I met them.

01:33:36 12 Q. I want to ask you some questions about -- about
01:33:38 13 Tonya Priest. Did your wife and Tonya work together?

01:33:44 14 A. I believe she had a job with Tonya working doing
01:33:48 15 yard work or something. It didn't last very long.

01:33:50 16 Q. Was that when you were living in the trailer?

01:33:52 17 A. I believe so.

01:33:54 18 Q. Would Tonya provide your wife rides to work?

01:33:59 19 A. No, it was the other way around. My wife was
01:34:01 20 providing her the ride. That's why it didn't last long
01:34:06 21 because Tonya's not -- they ended up fighting over gas
01:34:12 22 money, this, that and the other thing, she's on the outs,
01:34:16 23 she's a crazy chick.

01:34:18 24 Q. In 2006 did you have a conversation in front of
01:34:25 25 Tonya and your wife about Heidi Allen?

- 01:34:29 **1** **A.** Nope.
- 01:34:30 **2** **Q.** Are you saying there was no conversation whatsoever?
- 01:34:34 **3** **A.** None whatsoever.
- 01:34:36 **4** **Q.** Do you recall a television show coming on in 2006 in
01:34:47 **5** the presence of your wife and Tonya about Heidi Allen?
- 01:34:52 **6** **A.** No, ma'am. Like I said, back then I worked more
01:34:57 **7** than I was at home so I wouldn't have been at home when
01:35:00 **8** Tonya was there watching TV. If I was at home it was late
01:35:03 **9** and she was home with her kids.
- 01:35:04 **10** **Q.** Did you ever have a conversation in the presence of
01:35:07 **11** Tonya and your wife about what happened to rats around
01:35:12 **12** here, meaning snitches?
- 01:35:13 **13** **A.** No, ma'am, I did not.
- 01:35:17 **14** **Q.** Did you ever have a conversation about Roger
01:35:19 **15** Breckenridge in front of your wife and Tonya in 2006?
- 01:35:24 **16** **A.** Not that I recall.
- 01:35:26 **17** **Q.** Did you ever talk in front of Tonya and your wife
01:35:36 **18** about you, Roger Breckenridge and Mike Bohrer abducting
01:35:42 **19** Heidi Allen?
- 01:35:43 **20** **A.** No, ma'am.
- 01:35:43 **21** MR. OAKES: Objection, Your Honor.
- 01:35:45 **22** THE COURT: What's your objection based on?
- 01:35:47 **23** MR. OAKES: Leading.
- 01:35:48 **24** THE COURT: You're going back to leading
01:35:50 **25** questions. I'll allow it, but start asking the proper

01:35:52 1 form of questions please.

01:35:54 2 Q. What did you say to your wife and Tonya -- well,
01:36:08 3 strike that. Were you asked what happened to Heidi Allen
01:36:15 4 in front of your wife and Tonya?

01:36:16 5 A. No, ma'am.

01:36:18 6 Q. Did you respond, "Do you really want to know?"

01:36:22 7 A. No, ma'am.

01:36:23 8 MR. OAKES: Objection, Your Honor.

01:36:24 9 THE COURT: It's leading.

01:36:26 10 MR. OAKES: Leading and foundation.

01:36:28 11 MS. BIANCO: I have to put foundation in in
01:36:31 12 order to produce witnesses, Judge. I want to make sure
01:36:32 13 I establish a time and he can deny it.

01:36:35 14 THE COURT: Doesn't give you permission to
01:36:36 15 violate your ethical questioning, the questioning of
01:36:40 16 your witness. He's already said he did not have a
01:36:44 17 conversation. That question will not be considered,
01:36:49 18 that answer will not be considered by the Court.

01:36:51 19 Q. Do you know a person named Megan Shaw?

01:36:55 20 A. Yes, I do.

01:36:56 21 Q. How do you know Megan Shaw?

01:36:59 22 A. Through Rubin and Rubin's brother.

01:37:02 23 Q. And how long have you known Megan?

01:37:04 24 A. Oh, three, four years, something like that, five,
01:37:12 25 eight years.

01:37:13 1 Q. Have you ever visited Megan and Sid Shaw at their
01:37:17 2 home?

01:37:18 3 A. Yeah.

01:37:19 4 Q. Where was their home?

01:37:21 5 A. Oh, I forget the name of the road. They had a
01:37:24 6 trailer on a side road over Parish.

01:37:27 7 Q. Would it be Duchess Hill Road?

01:37:29 8 A. Yes, there it is; yes, ma'am.

01:37:31 9 Q. In April or May of 2010, did you have a conversation
01:37:39 10 with the Shaws in their living room about how upset you
01:37:46 11 were with your wife Vickie?

01:37:48 12 A. Yeah.

01:37:49 13 Q. Did you tell them that you were going to kill
01:37:53 14 Vickie?

01:37:54 15 MR. OAKES: Objection.

01:37:55 16 THE COURT: Sustained.

01:37:56 17 MS. BIANCO: Judge, this is leading into why
01:37:58 18 the next conversation is occurring. It's just a
01:38:00 19 foundation question.

01:38:01 20 THE COURT: It's not a foundation question.
01:38:03 21 Sustained.

01:38:04 22 Q. Did you talk to Rubin and Megan about disposing of
01:38:16 23 Heidi Allen's body?

01:38:17 24 MR. OAKES: Objection.

01:38:18 25 A. No.

01:38:19 1 THE COURT: Sustained.

01:38:19 2 Q. What did you say about Heidi Allen to Rubin and
01:38:22 3 Megan in April or May of 2010 in their living room about
01:38:28 4 Heidi Allen?

01:38:30 5 A. Nothing.

01:38:32 6 Q. Did you talk to Rubin and Megan about Heidi Allen
01:38:44 7 and a motorcycle club?

01:38:47 8 MR. OAKES: Objection, Your Honor. I think
01:38:48 9 it's been asked and answered. He said he said nothing
01:38:51 10 about Heidi Allen.

01:38:51 11 THE COURT: It's been asked and answered.
01:38:53 12 Sustained.

01:38:54 13 Q. What did you tell Rubin and Megan about Heidi
01:39:00 14 Allen's boyfriend?

01:39:02 15 MR. OAKES: Objection. Same objection, Your
01:39:05 16 Honor.

01:39:05 17 THE COURT: No, it's -- no, it's a different
01:39:06 18 question. I'll allow it.

01:39:07 19 A. Nothing at all.

01:39:08 20 Q. What did you tell Rubin and Megan about the
01:39:14 21 Thibodeaus?

01:39:15 22 A. Nothing at all. I don't know anything about the
01:39:17 23 Thibodeaus, only what we've heard on TV and the whole deal.

01:39:22 24 Q. You don't know the Thibodeau boys?

01:39:24 25 A. Never met them, never knew them, no.

01:39:26 1 Q. Do you know a person named Dan Barney?

01:39:30 2 A. Dan Barney, yes, I know Dan Barney.

01:39:33 3 Q. How do you know Dan Barney?

01:39:35 4 A. We both went to Mexico High School, his mother drove
01:39:39 5 my bus, his mother had her hair done at my mom's house,
01:39:42 6 I've known Dan since I was young, back when I was in --
01:39:46 7 seen him around town, Mexico, going to Giovo's. He was
01:39:49 8 always in town.

01:39:52 9 Q. Have you ever been to parties in that Dan Barney has
01:39:55 10 been at?

01:39:55 11 A. Lots of them over the years from the eighties
01:39:58 12 through the nineties. Not so much in the late nineties,
01:40:02 13 two-thousands, we both got older.

01:40:05 14 Q. Were any of these parties connected with a
01:40:08 15 motorcycle club?

01:40:09 16 A. None that I ever seen Danny at that I knew that he
01:40:13 17 was involved with a motorcycle club.

01:40:15 18 Q. I'm sorry, you knew he was involved?

01:40:17 19 A. Never knew that, no, I did not. I knew Danny hung
01:40:20 20 around with people. I didn't know he was involved with the
01:40:22 21 club.

01:40:23 22 Q. Have you ever been to parties with the Vicious
01:40:26 23 Circle Club?

01:40:27 24 A. Up north I have been to two white parties up north
01:40:30 25 for the Vicious Circle, yes.

01:40:36 1

Q. In February of 2010 you separated from your wife

01:41:04 2

Vickie, correct?

01:41:05 3

A. Yes, ma'am.

01:41:06 4

Q. Why?

01:41:07 5

A. Excuse me?

01:41:08 6

Q. Why?

01:41:09 7

A. She left.

01:41:11 8

Q. Were you arrested for anything in February of 2010?

01:41:15 9

A. I believe it was the end of February after I came

01:41:17 10

back from our vacation.

01:41:19 11

Q. Was it for domestic violence?

01:41:21 12

A. Yeah. She told them one story, then changed the

01:41:24 13

story when me and my kids still went on our vacation, so if

01:41:27 14

we want to get into that story, I'll tell the whole thing,

01:41:30 15

that's not a problem.

01:41:31 16

Q. Well --

01:41:32 17

THE COURT: Please approach.

01:43:08 18

(Whereupon, there was an off the record

01:43:10 19

discussion at the bench).

01:44:25 20

THE COURT: Ms. Bianco, do you want to make

01:44:27 21

sure your mike's back on. Thank you.

01:44:31 22

Q. After you and your wife separated from domestic

01:44:40 23

violence incident, did you talk to a number of people about

01:44:44 24

threatening to harm your wife?

01:44:46 25

A. No.

01:44:47 1 Q. You did not talk to Jamie McGillicuddy?

01:44:56 2 A. I used to work with Jamie McGillicuddy, yeah.

01:44:59 3 THE COURT: I didn't hear what you said.

01:45:00 4 A. I said yeah, I used to work with Jamie McGillicuddy,
01:45:05 5 but I never told him I was going to hurt her.

01:45:07 6 Q. Did you talk to Jen Wescott about wanting to hurt
01:45:09 7 your wife?

01:45:10 8 A. No.

01:45:10 9 Q. Did you talk to Amanda Braley?

01:45:15 10 A. No.

01:45:16 11 Q. Rubin or Sid Shaw about wanting to hurt your wife?

01:45:21 12 A. No.

01:45:21 13 Q. Did you ever make statements in connection with
01:45:27 14 threatening to kill your wife like you did Heidi Allen?

01:45:32 15 A. No.

01:45:33 16 Q. Did you ever make any statements about threatening
01:46:00 17 to kill your wife just like you did disposing of Heidi
01:46:05 18 Allen's body?

01:46:05 19 A. No, ma'am.

01:46:06 20 Q. The night before your wife died, were you at a
01:46:20 21 party?

01:46:21 22 A. Yes, ma'am.

01:46:21 23 Q. Were you at a party with a man by the name of
01:46:33 24 Jonathan Barkley?

01:46:34 25 A. John was there, yeah.

01:46:36 1 Q. Did you ever tell Jonathan Barkley that you were
01:46:41 2 going to hurt your wife the next day?

01:46:43 3 A. No, ma'am.

01:46:44 4 Q. Did you take Jonathan Barkley's truck the night of
01:46:48 5 that party?

01:46:48 6 A. I was driving John's truck that night, yes.

01:46:51 7 Q. And the next day, when your wife was killed, were
01:46:59 8 you home -- excuse me. Were you in her house and there was
01:47:03 9 a police standoff?

01:47:05 10 A. Yes.

01:47:05 11 Q. Did you receive a call from the number 935-1042?

01:47:12 12 A. I received a lot of calls that day.

01:47:15 13 Q. Did Jonathan Barkley call you?

01:47:17 14 A. No.

01:47:19 15 Q. Do you know whose number 935-1042 is?

01:47:23 16 A. No, ma'am, I sure don't.

01:47:25 17 Q. Did you ever receive a text on the day -- let me
01:47:34 18 backtrack. That was September tenth, is that right?

01:47:38 19 A. Yes, ma'am.

01:47:38 20 Q. September tenth?

01:47:39 21 A. It was September twelfth actually, 2010.

01:47:41 22 Q. Okay, and while you were in the house, you were
01:47:45 23 receiving a number of texts, correct?

01:47:47 24 A. Texts from everything.

01:47:49 25 Q. And --

- 01:47:49 1 A. Phone calls, texts.
- 01:47:51 2 Q. Pardon?
- 01:47:52 3 A. Phone calls, texts, all kinds of stuff going on that
- 01:47:56 4 day.
- 01:47:56 5 Q. And that was from people you knew, is that right?
- 01:47:58 6 A. From everybody. I think on the paper that Mr.
- 01:48:02 7 O'Brien sent me from the Post-Standard it showed that I had
- 01:48:06 8 phone calls from people wanting cars picked up too,
- 01:48:11 9 messages on my -- my deal, so everybody was still calling
- 01:48:14 10 my phone.
- 01:48:17 11 Q. Do you remember receiving a text that said, "Heidi
- 01:48:26 12 ciao." Do you remember that text?
- 01:48:28 13 A. No, I don't remember. I finally seen that was when
- 01:48:31 14 Mr. O'Brien sent me the paper with that on there. That's
- 01:48:35 15 how I know that there was people calling me about cars.
- 01:48:38 16 Q. Do you admit --
- 01:48:39 17 A. From that paper.
- 01:48:40 18 Q. Did you receive that text?
- 01:48:42 19 A. It says so on the paper. I don't remember ever
- 01:48:45 20 getting it or reading it.
- 01:48:51 21 Q. "Heidi ciao." What does that mean to you?
- 01:48:54 22 A. I have no idea. Doesn't mean anything to me.
- 01:48:57 23 Q. And you don't know who sent that?
- 01:48:59 24 A. No, ma'am, I don't.
- 01:49:00 25 Q. And that was approximately ten minutes after your

01:49:03 1 wife was killed?

01:49:05 2 A. I don't know what the time is on the call, you've
01:49:07 3 got the paper, I don't. I don't know exactly when that all
01:49:11 4 happened so.

01:49:15 5 MS. BIANCO: May I approach, Your Honor?

01:49:16 6 THE COURT: Yes.

01:49:17 7 Q. Showing you what's been marked as Defendant's
01:49:19 8 Exhibit 45 --

01:49:34 9 MS. BIANCO: May I have a moment, Your Honor?

01:49:35 10 THE COURT: Sure.

01:49:36 11 (Whereupon, there was a pause in the
01:50:13 12 proceeding.)

01:50:13 13 THE COURT: Referring to -- are you referring
01:50:15 14 to a specific page on forty-five?

01:50:17 15 MS. BIANCO: Yes. Page thirty-three of
01:50:18 16 Exhibit 45, the fourth call down from the top.

01:50:24 17 A. Yes. This is the same paper that I got from the
01:50:32 18 Post-Standard they sent in asking -- see I don't -- no idea
01:50:36 19 what it meant, who it was from. Just like I told the DA
01:50:39 20 when he asked me, just like I told everybody, I had no idea
01:50:43 21 what it was.

01:50:43 22 Q. But that text went to your phone, correct?

01:50:46 23 A. I believe it did. This is my phone, right? If this
01:50:50 24 is the report for it, so like I said, I don't remember half
01:50:55 25 of these texts and phone calls that day.

01:50:58 1 Q. What time was your wife killed?

01:51:02 2 A. Oh, I believe -- I don't even remember the time that
01:51:07 3 that happened. I know it was in the afternoon but I --
01:51:10 4 that day is still --

01:51:16 5 Q. You received this call, "Ciao Heidi," at 12:12, is
01:51:20 6 that right?

01:51:20 7 A. I believe so.

01:51:21 8 Q. And you received a same -- another call from the
01:51:25 9 same number just a few minutes before didn't you?

01:51:29 10 A. I don't know. I didn't get the paper with that text
01:51:32 11 on there so I wouldn't know. I only got that one page that
01:51:34 12 you just showed me from the Post-Standard guy, Mr. O'Brien.

01:51:40 13 MS. BIANCO: If I may have a moment, Your
01:51:43 14 Honor.

01:51:43 15 THE COURT: Sure.

01:51:43 16 (Whereupon, there was a pause in the
01:52:02 17 proceeding.)

01:52:02 18 Q. If I showed you Exhibit 44, 45 again, would you be
01:52:08 19 able to recognize whether that's the same number, entry
01:52:11 20 number two?

01:52:11 21 THE COURT: Is that still page thirty-three?

01:52:14 22 MS. BIANCO: It is, Your Honor.

01:52:16 23 A. That's the same thing you just showed me.

01:52:16 24 Q. Four lines down, "Ciao Heidi," two lines down, same
01:52:20 25 caller, correct?

01:52:22 1 A. Two lines down you said? I'm trying to -- that's
01:52:25 2 not circled like the Heidi deal is. Wireless call. Yeah.
01:52:31 3 It looks like it.

01:52:32 4 Q. So someone called you first, and it doesn't appear
01:52:36 5 you answered the phone, correct?

01:52:37 6 A. I guess.

01:52:38 7 Q. And then the same person called you and said, "Ciao
01:52:41 8 Heidi."

01:52:43 9 A. No idea.

01:52:44 10 Q. And you have no idea who that was from?

01:52:46 11 A. No, ma'am.

01:52:47 12 Q. Have you ever gotten any other messages relating to
01:52:50 13 any Heidis?

01:52:51 14 A. None that I know of. That one call there was from
01:52:57 15 Liverpool so I don't know who that -- like I said, I was
01:53:00 16 getting calls on that page right there from people wanting
01:53:03 17 cars picked up, scrap cars, so I don't know if that is --
01:53:07 18 what it was, you know what I mean? I couldn't tell you
01:53:09 19 that I -- I don't know the number so that's --

01:53:13 20 Q. What was your relationship with Jonathan Barkley at
01:53:16 21 that time?

01:53:16 22 A. There was no relationship. He was over at Jay's a
01:53:20 23 lot and I was at Jay's a lot. Other than that --

01:53:23 24 Q. Were you friends?

01:53:24 25 A. Pretty -- yeah, you could say we were okay, we

01:53:27 1 weren't really close friends, you know what I mean, because
01:53:30 2 I didn't know him that well.

01:53:31 3 Q. But you took his truck that night.

01:53:33 4 A. He was drinking, he rode home, I drove his truck
01:53:36 5 home. I did have Jay McGillicuddy's Jeep, but it broke
01:53:44 6 down at my house, and we walked, me and a friend of mine
01:53:46 7 walked over to the party from my house because it was right
01:53:49 8 around the corner from my house, and then we drove John's
01:53:51 9 truck back over to my cousin's that night and that's where
01:53:54 10 we stayed.

01:53:55 11 Q. You and Jay McGillicuddy stayed at your cousin's?

01:54:00 12 A. No. Jay McGillicuddy -- John went with Jay
01:54:03 13 McGillicuddy that night because he was drinking. Me --
01:54:07 14 Etta Maynes (ph) and I went to this party from my house
01:54:12 15 that night. John was drinking, was too drunk. Jay made
01:54:16 16 him go home with him. We took John's truck. We stayed at
01:54:20 17 my cousin's that night.

01:54:24 18 Q. Was Jay McGillicuddy someone you were close with?

01:54:29 19 A. Yeah. I've known Jay for a long time, from school.
01:54:35 20 I wouldn't say close close, but we were friends.

01:54:37 21 Q. Well, after your arrest, did he help you out
01:54:39 22 financially?

01:54:40 23 A. He didn't help me financially, no.

01:54:43 24 Q. Did he help you with your lawyer?

01:54:45 25 A. No, not at all. He tried telling people that he

01:54:48 1 did. I paid everything to my lawyer.

01:54:51 2 Q. Did he show up at the scene of the murder to pick up
01:54:54 3 your son before the police arrived?

01:54:56 4 A. He showed up there, yeah, but he -- the cops were
01:54:59 5 there before him I do believe.

01:55:00 6 Q. Did he take your son?

01:55:01 7 A. I believe I was sitting in the apartment, I don't
01:55:05 8 know who took my son. It could have been Jay, he says it
01:55:07 9 was him, so I don't -- I wasn't outside. I don't know who
01:55:11 10 actually picked him up and took him away.

01:55:13 11 Q. Was Jay McGillicuddy someone you had a lot of
01:55:18 12 conversations with on the telephone while you were
01:55:19 13 incarcerated pending the trial of your wife?

01:55:23 14 MR. OAKES: Objection, Your Honor, relevance.

01:55:25 15 THE COURT: Can you explain the relevance?

01:55:27 16 MS. BIANCO: Judge, I'm going to get into the
01:55:29 17 details of these conversations.

01:55:30 18 THE COURT: Understood details, but I want to
01:55:33 19 know the relevance first.

01:55:34 20 MS. BIANCO: Did you have a conversation --
01:55:35 21 can I ask the question and I'll connect it right now?

01:55:37 22 THE COURT: Okay.

01:55:37 23 Q. Did you have a conversation with Jay McGillicuddy
01:55:42 24 about a disappearing act and him saying, "He's good at
01:55:46 25 that, that and kidnapping." Did you have that

01:55:49 1

conversation?

01:55:50 2

A. Not that I know of.

01:55:51 3

Q. Are you saying that conversation didn't happen or

01:55:56 4

you don't remember?

01:55:57 5

A. Not that I know of.

01:55:58 6

Q. Would something refresh your recollection like the

01:56:01 7

conversation itself?

01:56:03 8

THE COURT: Hold on. I don't think I

01:56:05 9

understand the question you're posing at this point.

01:56:08 10

Who allegedly made this statement?

01:56:09 11

MS. BIANCO: McGillicuddy is talking about

01:56:12 12

being good at kidnapping and disappearing acts.

01:56:15 13

THE COURT: He's saying that he's good at it?

01:56:17 14

MS. BIANCO: And Mr. Steen is on the phone

01:56:19 15

with him.

01:56:21 16

THE COURT: Come up.

01:56:22 17

(Whereupon, there was an off the record

01:56:51 18

discussion at the bench.)

01:56:51 19

MS. BIANCO: May I have a moment, Your Honor?

01:56:53 20

THE COURT: Yes. Your mike's back on. Be

01:56:55 21

careful.

01:56:57 22

(Whereupon, there was a pause in the

01:57:54 23

proceeding.)

01:57:54 24

Q. Just so we're clear, you took Jonathan Barkley's

01:57:58 25

truck the night of that party, correct?

01:57:59 1

A. Yes, ma'am.

01:58:00 2

Q. And you took Jonathan Barkley's truck to the scene

01:58:04 3

when your wife was murdered, drove it to her house?

01:58:06 4

A. Yes, ma'am.

01:58:07 5

Q. And you do not know who sent you the text, "Ciao

01:58:12 6

Heidi?"

01:58:12 7

A. No, ma'am.

01:58:14 8

Q. And you deny making statements to anyone about

01:58:20 9

abducting or killing Heidi Allen.

01:58:23 10

A. I have never said to anyone that I abducted or

01:58:27 11

killed Heidi Allen.

01:58:28 12

Q. Did you ever say to anyone at any time that you

01:58:32 13

helped destroy the van that she was abducted in?

01:58:36 14

A. Never. The only thing -- I'll wait till you ask the

01:58:39 15

question then.

01:58:40 16

Q. The only thing --

01:58:41 17

A. The only thing I've ever said to anybody is what

01:58:44 18

Roger told me. That's all I ever known, and then like I

01:58:47 19

told you earlier in this deal is I went to Rich Murtaugh

01:58:51 20

and asked him. That's all I ever known about this case or

01:58:54 21

any part that I've had in it, if I had any part in it, is

01:58:57 22

from what Roger said. Plain and simple. Knowingly, I had

01:59:02 23

nothing to do with any of this Heidi Allen stuff.

01:59:07 24

Knowingly.

01:59:08 25

Q. You said knowingly.

01:59:09 1 A. Knowingly. Until Roger told me that I had a stolen
01:59:13 2 van on my truck or that what was in that van, I knowingly
01:59:16 3 didn't know that I -- that it was there.

01:59:19 4 Q. Are you saying --

01:59:19 5 A. And I went and asked if it was and I was told it
01:59:23 6 wasn't.

01:59:23 7 Q. But are you saying you don't know whether you were
01:59:25 8 involved in the destruction of Heidi Allen's body and the
01:59:29 9 van?

01:59:29 10 A. Knowingly I wasn't, but if I drove that truck up
01:59:31 11 there, then I guess I was the one that hauled it, but I had
01:59:35 12 nothing to do with getting to doing it. I didn't know it
01:59:39 13 was on my load is what I'm saying. I did not expect my --
01:59:42 14 inspect my load. I picked up a load of crushed cars, took
01:59:46 15 them to Canada. I was driving a step deck trailer. I
01:59:50 16 backed up in front of the shredder. That's where I had to
01:59:53 17 back up in front of. If I would have had a high flat on,
01:59:56 18 they would have taken the cars off and stacked them in the
01:59:59 19 yard because the yard was full of cars, but since I had a
02:00:02 20 step deck trailer and all the cars were uneven, they can't
02:00:06 21 pull them off in neat stacks, the crane unloaded it.

02:00:09 22 Q. You watched the crane unload it?

02:00:11 23 A. Every load I took up on a step back trailer I
02:00:14 24 watched them unload.

02:00:14 25 Q. And one of the vehicles was a white van, correct?

02:00:18 1 A. No idea. I had all kinds of vans, all kinds of
02:00:21 2 cars, all different colors.

02:00:23 3 Q. And --

02:00:23 4 A. He never told me what color the van was.
02:00:26 5 I've never -- all's I was told is I took a hot car
02:00:30 6 and it was a van, and then do you know what was in
02:00:32 7 the van is all I was ever told. I don't know what
02:00:35 8 color, if it was green, black, blue, purple. I don't
02:00:38 9 know what color it was, and I watched, yeah, hundreds
02:00:41 10 of loads. I can't say hundreds because I didn't take
02:00:45 11 hundreds, but every load I took up on the step deck,
02:00:47 12 watched them get unloaded by the crane, yes, ma'am, I
02:00:50 13 did.

02:00:50 14 Q. And when you said, "He told me that Heidi Allen was
02:00:54 15 in the van," who would that be?

02:00:56 16 A. Roger Allen, Roger Breckenridge.

02:00:59 17 MR. OAKES: Objection, Your Honor.

02:01:00 18 THE COURT: Asked and alleged.

02:01:01 19 MR. OAKES: I think that's a
02:01:04 20 mischaracterization of his response.

02:01:05 21 THE COURT: I understand. The line's already
02:01:07 22 been and asked and answered.

02:01:10 23 MS. BIANCO: No further questions.

02:01:12 24 THE COURT: Thank you. Mr. Oakes?

02:01:17 25 MR. OAKES: Thank you. Yes, please.

02:01:19 **1** CROSS-EXAMINATION

02:01:20 **2** BY MR. OAKES:

02:01:21 **3** Q. Good afternoon, Mr. Steen.

02:02:07 **4** A. Good afternoon.

02:02:08 **5** Q. Mr. Steen, you said back in 1994 you were living in
02:02:16 **6** your mom's house?

02:02:17 **7** A. Yes, sir.

02:02:17 **8** Q. That was at your best recollection, 103 County Route
02:02:21 **9** 35?

02:02:21 **10** A. Yes, sir.

02:02:22 **11** Q. What town was that in?

02:02:24 **12** A. Palermo. It's actually a Fulton address, Fulton
02:02:27 **13** phone number, Mexico School District and Town of Palermo.

02:02:30 **14** Q. Okay, and at that time you were employed?

02:02:33 **15** A. I do believe --

02:02:35 **16** Q. 1994?

02:02:36 **17** A. I believe I was working like I said for Roger Allen
02:02:39 **18** driving dump truck I believe. That was right after Mohawk
02:02:43 **19** Valley Oil was in there so I was delivering fuel oil at
02:02:45 **20** some point in time. There was a lot of jobs back then.

02:02:49 **21** Q. And around the time Heidi Allen's disappearance and
02:02:53 **22** abduction, your recollection you were working for Allen?

02:02:56 **23** A. I believe I was, yeah, I was working Rogers Allen's
02:03:00 **24** because I remember having a conversation with a couple of
02:03:01 **25** the drivers out on the road and then asking was she related

02:03:05 1 to Roger Allen because we worked for Roger and that's when
02:03:09 2 I remember them saying I don't think so.

02:03:10 3 Q. And it was some time after Heidi's disappearance,
02:03:14 4 ninety-five, ninety-six I think you testified, you began
02:03:17 5 working for Murtaugh's over at Bristol Hill, or I take that
02:03:20 6 back, not working for Mr. Murtaugh, but hauling out of his
02:03:23 7 yard?

02:03:23 8 A. Yeah. I was working for Phil White, and I believe
02:03:26 9 it was that -- it was after the Roger Allen deal. I don't
02:03:28 10 know exactly the years, I don't know exactly, like I told
02:03:32 11 you guys when you were up at Attica, it's twenty years ago
02:03:35 12 and I don't know exactly the years where I worked, how I
02:03:37 13 worked, who I worked for, and it was -- I know I worked for
02:03:41 14 Roger Allen, then I went to work for Dick Murtaugh, but it
02:03:45 15 wasn't Dick Murtaugh, it was Phil White working for Dick
02:03:49 16 Murtaugh. Phil hauled Dick's scrap.

02:03:51 17 Q. So Phil hauled Dick Murtaugh's scrap, you basically
02:03:55 18 worked for Phil, if he told you to take a load, that's
02:03:58 19 where you would take it?

02:03:59 20 A. That's exactly what I did.

02:04:00 21 Q. And you would haul loads to any number of places, is
02:04:04 22 that correct?

02:04:04 23 A. Yes, sir.

02:04:04 24 Q. What were some of those places?

02:04:05 25 A. Well, we took loads to Erie, Pennsylvania, we took

02:04:08 1 loads out to Rochester, two different places out there. We
02:04:13 2 took up to Canada, two different places, Ottawa, and then
02:04:16 3 over near Toronto, and whenever they -- you were going, you
02:04:21 4 pick them up all over the place, but those were the four.
02:04:24 5 I've delivered loads to Roth Steel in Syracuse before I was
02:04:27 6 working for them, and that was -- wherever he sent the
02:04:31 7 loads or sold the loads to, that's where you took them.

02:04:35 8 Q. Would it be fair to say then you didn't pick the
02:04:37 9 location where these loads were going?

02:04:39 10 A. No, sir.

02:04:39 11 Q. You were told where you were driving?

02:04:44 12 A. Yes, sir.

02:04:44 13 Q. That's where you went?

02:04:44 14 A. You come in because usually the scrap business it
02:04:47 15 goes by monthly, prices go by monthly, you set up a
02:04:50 16 contract. Usually for the whole month that's where we haul
02:04:52 17 to. If we started hauling to Canada the beginning of the
02:04:55 18 month, that's where we were hauling to, up to Toronto,
02:04:58 19 unless we hauled to Rochester or Erie, that's where we go
02:05:02 20 is Erie, and that's usually how it worked.

02:05:06 21 Q. Mr. Steen, you said you've read certain newspaper
02:05:16 22 accounts regarding the case, some of the allegations that
02:05:19 23 have been made?

02:05:19 24 A. Yes, sir.

02:05:19 25 Q. And would you agree that a lot of focus has been put

- 02:05:23 1 upon the fact that you may have hauled a load up to Canada?
- 02:05:26 2 Would you agree with that?
- 02:05:27 3 A. Yes.
- 02:05:28 4 Q. Was that uncommon for you to haul loads up to Canada
- 02:05:31 5 at that time?
- 02:05:31 6 A. Hauled lots of loads of cars to Canada.
- 02:05:35 7 Q. How many times would you say you'd hauled scrap up
- 02:05:37 8 to Canada?
- 02:05:37 9 A. Oh, God, we'd go five times a week, and just -- if
- 02:05:40 10 we were just -- if I was to say we went for one month,
- 02:05:43 11 that's five, twenty loads in that month, you know what I
- 02:05:47 12 mean, alone, so I worked over there a couple of years, so
- 02:05:52 13 I -- that's hard to say because we hauled a lot of loads to
- 02:05:55 14 Canada alone. I only went to Erie two, three times, Erie,
- 02:06:02 15 Pennsylvania, and we went to Rochester a lot or Canada a
- 02:06:05 16 lot. That's where we hauled most of the loads to is
- 02:06:08 17 Rochester and Canada.
- 02:06:09 18 Q. Okay, now you have talked with Ms. Bianco about some
- 02:06:16 19 conversations you had with Roger and I want to be clear.
- 02:06:21 20 Did you have any knowing, intentional involvement with the
- 02:06:24 21 Heidi Allen abduction?
- 02:06:26 22 A. No, sir, I did not.
- 02:06:27 23 Q. Did you have any knowing, intentional participation
- 02:06:31 24 in the disposal of Heidi Allen's remains?
- 02:06:33 25 A. No, sir, I did not. I didn't know I was doing that

02:06:37 1 until after it was done, and I only knew, like I said, it
02:06:41 2 was a stolen vehicle at first, and then it was "guess what
02:06:44 3 was in the vehicle."

02:06:46 4 Q. Now, Ms. Bianco asked you about was it March
02:06:50 5 fifteen, 2013 statement you gave to Investigator Pietroski
02:06:55 6 of the Sheriff's Department. Do you remember that
02:06:58 7 questioning?

02:06:58 8 A. At Auburn, yeah.

02:07:00 9 Q. And again, at that point you said you had nothing to
02:07:02 10 do with Heidi Allen, you knew nothing about it.

02:07:05 11 A. Exactly.

02:07:05 12 Q. And you didn't tell Investigator Pietroski about
02:07:08 13 Roger Breckenridge, about Roger Breckenridge's comment, is
02:07:13 14 that fair to say?

02:07:14 15 A. Exactly.

02:07:14 16 Q. And a few months later, on June fourteenth, 2013
02:07:19 17 Investigator Pietroski met you again at the state facility?

02:07:23 18 A. Yep.

02:07:23 19 Q. And you gave a second statement. I think that was
02:07:26 20 at the Auburn Correctional Facility?

02:07:28 21 A. Yeah. Both of them were at Auburn, yep.

02:07:30 22 Q. And that's a statement that you wrote down you said
02:07:32 23 I know nothing about anything that happened to Heidi Allen?

02:07:35 24 A. Yes, sir.

02:07:36 25 Q. And again, there you didn't say anything about

- 02:07:38 1 Roger, correct?
- 02:07:38 2 A. Yep.
- 02:07:39 3 Q. You're in state prison now, correct?
- 02:07:42 4 A. Yes, sir.
- 02:07:43 5 Q. Serving a life sentence?
- 02:07:45 6 A. Yes, sir.
- 02:07:45 7 Q. And I believe Ms. Bianco asked you some questions
- 02:07:57 8 about a December twenty-ninth meeting that took place
- 02:07:58 9 between yourself, me, Mr. Moody and two sheriff's
- 02:08:02 10 investigators.
- 02:08:03 11 A. Yes, sir.
- 02:08:04 12 Q. Do you remember that?
- 02:08:04 13 A. Yep.
- 02:08:05 14 Q. Okay, and I was asking you a lot of questions wasn't
- 02:08:09 15 I?
- 02:08:10 16 A. You sure were.
- 02:08:11 17 Q. And I told you I wanted to get to --
- 02:08:13 18 MS. BIANCO: Objection. He's acting as an
- 02:08:16 19 unsworn witness now, Judge.
- 02:08:17 20 THE COURT: Overruled.
- 02:08:19 21 Q. What did I tell you my objective was?
- 02:08:22 22 A. To find out what happened.
- 02:08:25 23 Q. To find out the truth?
- 02:08:27 24 A. Yeah.
- 02:08:27 25 Q. Whatever that was. Would it be fair to say I asked

02:08:31 1 you about a number of different people, whether they were
02:08:33 2 involved?

02:08:34 3 A. You sure did.

02:08:34 4 Q. And ultimately I at one point asked you if you knew
02:08:38 5 where Heidi's remains might potentially be.

02:08:41 6 A. And what I told you was is if what I was told was
02:08:43 7 true, she'd be in Canada in a landfill. If that is what
02:08:49 8 actually happened, that van was put on my truck or
02:08:54 9 anybody's truck and it went through that shredder, the
02:08:58 10 shredder makes cars into little bitty pieces, okay? The
02:09:04 11 waste from a car, the foam, the plastic, everything that's
02:09:09 12 non-metallic in a car, goes out one belt. Then it goes
02:09:13 13 into another machine and it gets to the non-metallic metal
02:09:18 14 separated and then the garbage goes out to the back and
02:09:20 15 then that goes to a landfill and that's where all -- if
02:09:25 16 that's what I was told back then happened, which I don't
02:09:30 17 think was true, but if it is, that's what happened, that's
02:09:33 18 where it would be, and that's exactly what I told you on
02:09:37 19 the twenty-ninth of December.

02:09:39 20 Q. Mr. Steen, when I first asked you the question
02:09:42 21 though about Heidi's potential location, did you give a
02:09:48 22 response right away?

02:09:48 23 A. No, I didn't.

02:09:49 24 Q. Why not?

02:09:49 25 A. Because I didn't feel that it was -- I'm in prison

02:09:54 1 for life, okay, and snitches -- and then after I thought
02:09:57 2 about it, it isn't -- I'm not a snitch because Roger told
02:10:00 3 these people after 'cause Mr. O'Brien sent me papers that
02:10:04 4 Roger picked the van up. He told the sheriffs, told you or
02:10:08 5 whoever, whoever interviewed him, the Post-Standard,
02:10:11 6 everybody, that he picked the van up at Thibodeau's house,
02:10:15 7 him and Rich Murtaugh picked it up, so I guess I'm not
02:10:18 8 telling on nobody. That's why I came out and I told you
02:10:21 9 what I told you in that interview, and I didn't say
02:10:23 10 anything in the back two interviews because nobody was --
02:10:26 11 it was not my place to tell on somebody then and I
02:10:29 12 wouldn't.

02:10:30 13 Q. As part of that same conversation, was there a
02:10:35 14 discussion between you and me about your kids?

02:10:38 15 A. Sure was.

02:10:39 16 Q. What was that conversation?

02:10:41 17 A. You said as a parent, I'd want to know where my kids
02:10:45 18 were at and that's what Heidi's parents would want to know
02:10:49 19 where that was, and if I was still seeing my kids, and I
02:10:51 20 said yeah, and like I said, I -- if what I was told was
02:10:57 21 true, if that is the truth of what happened, that van, if
02:11:00 22 that contained -- that van contained what it contained,
02:11:04 23 then like I told you, that's where it would be at is in a
02:11:07 24 landfill somewhere in Canada.

02:11:10 25 Q. But fair to say you don't actually know, it would be

02:11:12 1 speculation?

02:11:13 2 A. I don't know, so that's like I said, I don't know
02:11:15 3 where Heidi's at.

02:11:17 4 Q. You knew Roger Breckenridge for a period of years?

02:11:23 5 A. Yeah. Like I said, we went to school, we -- he
02:11:26 6 lived in Mexico, he was my wife's uncle. Yeah, I knew
02:11:31 7 Roger.

02:11:31 8 Q. And I believe you told this court that through your
02:11:34 9 interactions with Roger, you had an opinion that he was
02:11:37 10 full of hot air was your term?

02:11:40 11 A. Yeah, yes, sir.

02:11:41 12 Q. Why did you reach that conclusion?

02:11:42 13 A. Roger's constantly doing something like this. He
02:11:46 14 hears something, he's got to be a part of it. It was --
02:11:49 15 it's just the way he's -- he's got to be in this limelight,
02:11:55 16 he's got to -- he thinks that he did -- he was there, he
02:11:59 17 was -- if he was he was, if he wasn't I -- like that's why
02:12:01 18 I went when he told me that him and Rich did this, I went
02:12:04 19 to Rich Murtaugh and asked him 'cause that's who Phil White
02:12:09 20 worked for, that's his call, I was hauling. They told me
02:12:12 21 no. I was good with it.

02:12:14 22 Q. Do you recall any other stories or fabrications that
02:12:19 23 Roger Breckenridge would tell over the years?

02:12:21 24 A. Just the same one, you know what I mean, that that's
02:12:24 25 what was done.

02:12:34 1 Q. Now I believe you said you first met Jen Wescott
02:12:39 2 through Roger Breckenridge?

02:12:40 3 A. Yep, at his house on Kenyon Road.

02:12:42 4 Q. And at the time Roger was living on Kenyon Road?

02:12:47 5 A. I believe so. That's whose trailer I was told I was
02:12:51 6 at, Tracey's and Roger's. I went there with Paul Huggins.

02:12:55 7 Q. And that's what I was going to ask you. At the time
02:12:57 8 was he married to Tracey Breckenridge?

02:12:59 9 A. I believe so.

02:12:59 10 Q. And he had a number of kids with Tracey to your
02:13:03 11 understanding?

02:13:04 12 A. I believe so.

02:13:04 13 Q. And you're not exactly sure what the nature of that
02:13:06 14 relationship was between Jen Wescott and Roger at that
02:13:09 15 time?

02:13:09 16 A. Not --

02:13:10 17 Q. When you first met them.

02:13:11 18 A. Yeah. I don't know exactly what their relationship
02:13:14 19 was, but that's -- they were -- what they were doing is
02:13:17 20 their business.

02:13:18 21 Q. Okay, what time period was that, Mr. Steen,
02:13:22 22 ballpark.

02:13:23 23 A. The early to mid-nineties I believe, I would -- she
02:13:25 24 was telling me it was ninety-four, ninety-five. I might
02:13:28 25 be -- like I said, I can't -- I don't -- I never not

02:13:33 1 admitted to smoking marijuana, and I've smoked a lot of it,
02:13:35 2 so to tell you exactly dates, that will never happen. I
02:13:39 3 don't know exact dates any more.

02:13:40 4 Q. Fair enough. You said you had a good friend Paul
02:13:43 5 Huggins?

02:13:44 6 A. Yeah.

02:13:44 7 Q. He was dating Jen's sister I think it was Jessica?

02:13:46 8 A. Yeah, they had a kid together, a daughter, maybe
02:13:49 9 two. I can't remember if there is one or two.

02:13:51 10 Q. And is Jessica younger or older than Jen?

02:13:53 11 A. Younger. She's the youngest.

02:13:55 12 Q. Youngest, okay, and when was Paul dating Jessica?

02:14:00 13 A. Oh, back in the nineties. I don't know if it was --
02:14:04 14 I don't know their exact time frame, I don't, I don't. It
02:14:09 15 was in the nineties. I know that's when they first started
02:14:12 16 going out. I know she's married to someone else now. I
02:14:15 17 know they're not together any more.

02:14:16 18 Q. But you said you went to a party at one point at
02:14:19 19 Jen's parents' place I think it was, Paul is her dad?

02:14:21 20 A. Paul is her dad, yeah, Paul Wescott, yeah.

02:14:25 21 Q. And that was over at County Route 38?

02:14:27 22 A. I believe that's where Route 38 goes right from 45
02:14:30 23 straight across to Hastings, I believe that's the one.

02:14:33 24 Q. Is that by the bend right by the railroad tracks?

02:14:35 25 A. Yep, sure is.

02:14:37 1 Q. Was Jen living there at the time?

02:14:39 2 A. I don't know if Jen and Roger were living there at
02:14:41 3 the time. I know they lived there with her parents for a
02:14:44 4 while, they were living downstairs or upstairs, or I don't
02:14:49 5 know, they lived there a few times when Jen had Jacob,
02:14:51 6 that's their son, they lived there for a little while, and
02:14:54 7 then after that they were -- you never knew with them two.

02:14:57 8 Q. And that's actually what I was going to ask you, Mr.
02:14:59 9 Steen, is when they had -- well, Jen Wescott, Roger
02:15:03 10 Breckenridge have two kids together, Jacob and Kristen?

02:15:06 11 A. Yep.

02:15:07 12 Q. Jacob's their boy, Kristen's the girl?

02:15:09 13 A. The oldest, Kristen's the youngest.

02:15:11 14 Q. So when Jacob was a baby, were they living at Paul
02:15:15 15 Wescott's place, Jen's parents' place?

02:15:17 16 A. I believe so.

02:15:18 17 Q. Okay. Did you ever know Jen or Roger to live over
02:15:23 18 on Rice Road?

02:15:25 19 A. I never was at their house on Rice Road if they
02:15:28 20 lived there. I -- that's what blows my mind about this
02:15:32 21 whole thing. I never remember them living on Rice Road,
02:15:33 22 but I never went to Roger and Jen's house that often. They
02:15:36 23 were mostly out and about. You could see them anywhere.
02:15:40 24 You could see them at Jeff Derby's, Rodney West's, over
02:15:44 25 this house, over here, in Mexico. It -- they -- they were

02:15:48 **1** never home even if they did have a house so you never went
02:15:51 **2** to their house because they were never home any ways.

02:15:53 **3** **Q.** Would it be fair to say then that you were never at
02:15:56 **4** a residence lived in by Jen and Roger on Rice Road in
02:16:01 **5** Mexico?

02:16:02 **6** **A.** I've never been to a -- yeah, yeah, you're right,
02:16:05 **7** no, I've never been to a residence on Rice Road.

02:16:11 **8** **Q.** You talked with Ms. Bianco about Tonya Priest, and
02:16:20 **9** basically you knew her through your wife Vickie?

02:16:23 **10** **A.** Yep.

02:16:24 **11** **Q.** And at the time you first met Tonya, you were --
02:16:28 **12** were you just dating Vicki or were you engaged to her?

02:16:31 **13** **A.** I met Tonya before Vickie.

02:16:33 **14** **Q.** Okay.

02:16:33 **15** **A.** I was engaged or going out with Vickie. I met her
02:16:36 **16** from her father is what I told Ms. Bianco. They lived next
02:16:40 **17** door to Rodney West up in the trailer park that we bought
02:16:43 **18** the trailer from him at in Happy Valley. They lived next
02:16:47 **19** door to him. That's how I ended up meeting them, but I
02:16:50 **20** didn't really know them, I met them, hey, what's up, and
02:16:53 **21** then I -- I never went over their house and hung out. I
02:16:56 **22** was over at Rodney's and they'd just stop over, what's up,
02:16:59 **23** this, that. Other than that, I was never -- I didn't go to
02:17:02 **24** their house and hang out if that's -- none of that.

02:17:04 **25** **Q.** Okay, but once Jen and Vickie became friends -- I'm

02:17:09 1 sorry, strike that, I misspoke. Once Tonya and Vickie
02:17:13 2 became friends, would you see Tonya around your place at
02:17:17 3 all?

02:17:17 4 A. Yeah. I'd show up from work, Tonya would be there
02:17:20 5 or she'd be going home or in between or on the weekends.
02:17:23 6 My wife -- like the lady, I forget her name again.

02:17:26 7 Q. Ms. Bianco?

02:17:27 8 A. Ms. Bianco was saying, they worked together at a
02:17:30 9 landscaping deal, and that was a big problem with me and my
02:17:33 10 wife when we were first getting together because me and
02:17:35 11 Tonya did not get along.

02:17:37 12 Q. Why's that?

02:17:37 13 A. Tonya -- I didn't like the way Tonya treated her
02:17:40 14 children. I didn't like the way her kids had -- she'd drop
02:17:44 15 her kids anywhere, she -- more important to go do what she
02:17:47 16 wanted, and we didn't get along, we didn't see eye to eye
02:17:49 17 that way, and she didn't like knowing that I didn't like
02:17:51 18 the way she raised her kids or did what she did with her
02:17:55 19 kids.

02:17:55 20 Q. Did you ever openly tell Tonya --

02:17:58 21 A. Tell her flat out that I didn't like her, yes.

02:18:00 22 Q. Would you guys get into I don't want to say
02:18:02 23 arguments, but would there be words exchanged between you?

02:18:07 24 A. Not after that because I just like I told you, I
02:18:09 25 don't like the way you treat your kids, I don't like the

02:18:11 1 way you live, I don't like the way my wife and you are
02:18:14 2 related, if you're cousins or what, you work with her,
02:18:18 3 that's her business, not mine, I don't have to be your
02:18:19 4 friend, and I tell my wife, my girlfriend back then, that I
02:18:22 5 don't like you and I don't want to be your friend. She's
02:18:24 6 your friend.

02:18:25 7 Q. And she was friends with Vickie and still friends
02:18:31 8 with Vickie when you killed Vickie.

02:18:33 9 A. No.

02:18:34 10 Q. No?

02:18:34 11 A. Not that I know of. They had had a big blowup,
02:18:38 12 fight back when Vickie and me moved into that trailer two
02:18:42 13 years before that, and they'd see each out, but they
02:18:46 14 weren't buddy buddy any more because they still had mutual
02:18:50 15 friends.

02:18:50 16 THE COURT: Stop right there. Good time to
02:18:53 17 take a ten-minute break, 2:30, and I'm going to go
02:18:57 18 until four, okay? Court's in ten-minute recess.

02:19:08 19 (Whereupon, there was a recess.)

02:30:45 20 THE COURT: Just so that we, the attorneys and
02:33:52 21 the Court are, the understanding we're sending Mr.
02:33:55 22 Bohrer and his attorney today, they're not going to
02:33:58 23 testify, right?

02:34:00 24 MS. PEEBLES: That's correct.

02:34:01 25 THE COURT: Our plan is Mr. Breckenridge after

02:34:03 1 Mr. Steen, and if Mr. Breckenridge is not done, we'll
02:34:06 2 bring him back first thing Wednesday morning, and then
02:34:11 3 Bohrer, and then we'll go from there, right?

02:34:15 4 MS. PEEBLES: Correct, correct.

02:34:16 5 THE COURT: And of course Judge Fahey's the
02:34:17 6 unknown because we'll take him as he's available.

02:34:20 7 MS. PEEBLES: Yes.

02:34:21 8 THE COURT: Is that your understanding too,
02:34:21 9 Mr. Oakes?

02:34:22 10 MR. OAKES: Yes.

02:34:23 11 THE COURT: So Mr. Bohrer is out for today.
02:34:24 12 Okay, would you get Mr. Steen please?

13 (Whereupon, there was a pause in the
14 proceeding).

02:35:03 15 THE COURT: Mr. Steen, you're back on the
02:35:04 16 bench, we're back on the record, and you're still under
02:35:08 17 oath, okay, sir?

02:35:08 18 THE WITNESS: Yes, sir.

02:35:08 19 THE COURT: Thank you.

02:35:09 20 MR. OAKES: Your Honor, could you turn on my
02:35:16 21 mike? Thank you.

02:35:21 22 Q. Mr. Steen, you indicated that you know Megan Shaw?

02:35:24 23 A. Yep.

02:35:25 24 Q. And did you know Megan through her husband Rubin
02:35:29 25 Sidney Shaw, is that how you met her?

02:35:32 1 A. Yeah. It was actually through Rubin's sister I
02:35:34 2 actually met her first because she was actually a
02:35:37 3 babysitter for Rubin's brother and I met her over at
02:35:40 4 Rubin's sister's house.

02:35:42 5 Q. Okay.

02:35:43 6 A. And then her and Rubin got together and yeah, mostly
02:35:47 7 through Rubin.

02:35:47 8 Q. Now I'm not sure if I understood you correctly. Is
02:35:50 9 there some sort of familial family relationship between
02:35:53 10 Tonya Priest and Megan Shaw? Are they related through
02:35:57 11 blood or marriage?

02:35:58 12 A. No, just they're both married to the same man.

02:36:01 13 Q. Okay.

02:36:02 14 A. She's married to Rubin, Tonya was married to Rubin,
02:36:05 15 that's all I know of.

02:36:05 16 Q. Now, I believe Ms. Bianco asked you about the term
02:36:09 17 or the name Vicious Circle. You have heard of that?

02:36:12 18 A. Yep.

02:36:13 19 Q. What is it?

02:36:13 20 A. It's a bike group, bike club, group, whatever you
02:36:18 21 want to --

02:36:19 22 Q. And I believe you indicated to Ms. Bianco you
02:36:22 23 attended a couple functions for the --

02:36:24 24 A. Cold parties, yeah, I didn't know they were Vicious
02:36:28 25 Circle functions till I got there, but yeah, they were

02:36:30 1 there.

02:36:30 2 Q. How did you hear about those parties or get
02:36:33 3 together?

02:36:33 4 A. A girl I was going out with.

02:36:35 5 Q. Were you a member of Vicious Circle?

02:36:37 6 A. Never.

02:36:37 7 Q. Did you ever ride motorcycles with them?

02:36:40 8 A. I've ridden bikes with a lot of people but I was
02:36:43 9 never in the club.

02:36:44 10 Q. Now, you had indicated to Ms. Bianco that over the
02:36:59 11 course of years since Heidi Allen's disappearance, you've
02:37:02 12 heard lots of stories in the community?

02:37:05 13 A. Most of the stories were back when this first
02:37:08 14 happened. That's -- everybody had their own opinion, their
02:37:10 15 own story of what happened, how it happened, where it
02:37:12 16 happened, and that's -- that was -- it was bar talk, you go
02:37:17 17 to a bar, that's what was the big talk was back in the
02:37:20 18 early nineties, middle nineties, and then after a while it
02:37:24 19 just everybody didn't -- it was over with, you know what I
02:37:28 20 mean?

02:37:28 21 Q. So during that time period would you agree there was
02:37:30 22 a lot of basically small town rumor and gossip about what
02:37:35 23 happened?

02:37:35 24 A. Sure.

02:37:36 25 Q. A lot of speculation?

02:37:38 1

A. Sure.

02:37:39 2

02:37:42 3

Q. And let me ask you, when you were a kid did you ever play the game telephone?

02:37:44 4

A. Excuse me?

02:37:44 5

02:37:47 6

Q. Did you ever play the game telephone where you tell a buddy something, he tells the next person?

02:37:49 7

02:37:51 8

MS. BIANCO: Objection to this, Your Honor, playing a game telephone.

02:37:52 9

02:37:54 10

THE COURT: I have an idea where he's going. Get to there -- get there pretty quickly.

02:37:56 11

Q. Okay.

02:37:57 12

02:37:59 13

A. No, I never heard of that, that's why you caught me off guard there.

02:38:00 14

02:38:03 15

02:38:06 16

Q. No, that's fine. Mr. Steen, would you agree with the idea that sometimes somebody tells a story and over time it grows, it expands, becomes some sort of legend?

02:38:09 17

A. Oh, sure.

02:38:11 18

02:38:11 19

MS. BIANCO: Objection, Judge, the relevance of somebody at some time telling a story.

02:38:13 20

02:38:15 21

THE COURT: If he gets to it quickly I'll allow it.

02:38:16 22

02:38:19 23

Q. Would you agree with the idea that in the community there's lots of stories about what happened to Heidi Allen?

02:38:22 24

A. Sure.

02:38:23 25

Q. A lot of speculation and conjecture?

- 02:38:26 1 A. Sure.
- 02:38:27 2 Q. And now that speculation and conjecture is focussed
- 02:38:30 3 on you.
- 02:38:31 4 A. Exactly.
- 02:38:32 5 Q. Now, Mr. Steen, Ms. Bianco asked if you are
- 02:38:41 6 convicted of murder, and you acknowledge that you are,
- 02:38:44 7 correct?
- 02:38:44 8 A. Yes, sir.
- 02:38:45 9 Q. And that's why you're in state prison now?
- 02:38:47 10 A. Yes, sir.
- 02:38:48 11 Q. Now, on September twelfth of 2010, the day you
- 02:38:54 12 killed Vickie and Charles Carr, you were in the hotel room
- 02:38:58 13 up in Pulaski, correct?
- 02:39:00 14 A. I don't know if you call it a hotel room.
- 02:39:02 15 Q. Not hotel but apartment?
- 02:39:04 16 A. Yeah, okay.
- 02:39:05 17 Q. And essentially you were stuck inside the apartment,
- 02:39:09 18 the police were outside?
- 02:39:10 19 A. Yes, sir.
- 02:39:11 20 Q. And eventually you spoke at some point with James
- 02:39:16 21 McGraw who was an attorney at the time?
- 02:39:17 22 A. Yep.
- 02:39:18 23 Q. And then you surrendered yourself to the police,
- 02:39:21 24 correct?
- 02:39:21 25 A. Yep.

02:39:21 1 Q. And then after you surrendered yourself, you
02:39:24 2 actually met with a member of the Sheriff's Department and
02:39:28 3 spoke with him?

02:39:29 4 A. I believe so.

02:39:31 5 Q. Do you remember speaking with a Carmen Rojek?

02:39:34 6 A. Yep.

02:39:35 7 Q. Sheriff's Department?

02:39:36 8 A. That's what I was -- yep.

02:39:38 9 Q. And at that time you told him about what had
02:39:40 10 happened that day and you explained, gave your version of
02:39:43 11 events, correct?

02:39:44 12 A. Pretty much, yeah.

02:39:46 13 Q. Okay, and you went to trial on that case?

02:39:50 14 A. Yes, I did.

02:39:51 15 Q. And you testified at your own trial, correct?

02:39:54 16 A. I sure did.

02:39:55 17 Q. Now, during the course of his representation, did
02:39:59 18 Mr. McGraw ever talk to you about trying to enter some sort
02:40:02 19 of plea deal or trying to get a better deal for your case?

02:40:06 20 A. No.

02:40:07 21 Q. Okay.

02:40:07 22 A. We were offered two different deals but we -- that
02:40:11 23 wasn't acceptable.

02:40:12 24 Q. Okay, well, did you ever have a private conversation
02:40:15 25 though with Mr. McGraw where he may have asked you look, do

02:40:18 **1** you know something you can give up to get a better deal?

02:40:21 **2** **A.** No.

02:40:21 **3** **Q.** Never talked to him about that?

02:40:23 **4** **A.** No.

02:40:24 **5** **Q.** And you are now sentenced to life in prison,

02:40:31 **6** correct?

02:40:31 **7** **A.** Yes, sir.

02:40:32 **8** **Q.** You realize that you are never getting out of state
02:40:36 **9** prison, correct?

02:40:37 **10** **A.** Yep.

02:40:38 **11** **Q.** Do you understand that if you were involved in Heidi
02:40:42 **12** Allen's abduction or death, you could say so right now and
02:40:47 **13** essentially you're going to face no additional punishment.

02:40:50 **14** **A.** Yeah. I recently went to Five Points and one of the
02:40:54 **15** guards said that to me.

02:40:56 **16** **Q.** My question to you though, Mr. Steen, were you
02:40:59 **17** involved in the abduction of Heidi Allen?

02:41:01 **18** **A.** No.

02:41:01 **19** **Q.** Were you involved in the killing of Heidi Allen?

02:41:04 **20** **A.** No.

02:41:04 **21** **Q.** Were you knowingly involved in the disposal of Heidi
02:41:08 **22** Allen?

02:41:08 **23** **A.** No.

02:41:09 **24** **Q.** Mr. Steen, I'm going to direct your attention back
02:41:16 **25** to the conversation in December twenty-ninth of 2014 when

- 02:41:21 1 Mr. Moody and I met with you?
- 02:41:22 2 A. Yes, sir.
- 02:41:23 3 Q. In state prison? You made a comment at one point,
- 02:41:26 4 you pointed to the investigators and then to Mr. Moody and
- 02:41:30 5 I. Do you remember your comment?
- 02:41:31 6 A. Yeah.
- 02:41:33 7 Q. What was your comment?
- 02:41:35 8 A. That I trust them more than I do you.
- 02:41:37 9 Q. Okay, you don't like prosecutors?
- 02:41:39 10 A. Don't like the DA's Office at all.
- 02:41:41 11 Q. And in particular, you don't like the Oswego County
- 02:41:43 12 DA's Office.
- 02:41:44 13 A. Exactly.
- 02:41:45 14 Q. Be fair to say your testimony -- let me rephrase.
- 02:41:54 15 Mr. Steen, would you go out of your way to give testimony
- 02:41:58 16 if you thought it would help me?
- 02:41:59 17 A. No.
- 02:42:00 18 Q. Okay, thank you.
- 02:42:08 19 THE COURT: Give me a second, Ms. Bianco,
- 02:42:10 20 please.
- 02:42:11 21 (Whereupon, there was a pause in the
- 02:42:13 22 proceeding.).
- 02:42:13 23 THE COURT: Thank you, Ms. Bianco.
- 02:42:37 24 MS. BIANCO: We just have to switch
- 02:42:39 25 microphones.

02:42:40 1 THE COURT: Okay. Mr. Steen, are you all set
02:42:44 2 for water, sir?

02:42:46 3 THE WITNESS: I can use a little more water
02:42:48 4 please. Thank you.

02:42:53 5 RE-CROSS-EXAMINATION

02:42:55 6 BY MS. BIANCO:

02:42:55 7 Q. Mr. Steen, I believe you testified on
02:43:11 8 cross-examination that Roger Breckenridge kind of was like
02:43:18 9 a blow hole and just made up a lot of stories, is that
02:43:21 10 right?

02:43:21 11 A. Pretty much, yep.

02:43:21 12 Q. How many other abductions has he confessed to you?

02:43:26 13 A. None.

02:43:26 14 Q. How many other murders has he confessed to you?

02:43:29 15 A. None. He never confessed to abducting Heidi
02:43:37 16 neither.

02:43:38 17 Q. He only told you about --

02:43:40 18 A. That he took a van, he got rid of the van.

02:43:42 19 Q. With what in it?

02:43:43 20 A. With Heidi's remains in it. But other than that, he
02:43:47 21 never said he took her or did anything to her. He just
02:43:50 22 removed the van is all he said.

02:43:52 23 Q. With her body.

02:43:53 24 A. Yeah.

02:43:54 25 Q. Now, when you had these conversations with the

02:44:02 1 prosecutor that he was talking about in December
02:44:05 2 twenty-ninth, what were you told in regards to your status
02:44:09 3 as a suspect?

02:44:11 4 A. I wasn't.

02:44:13 5 Q. You were not a suspect?

02:44:14 6 A. I was -- this was just a trial to see who -- what
02:44:18 7 happened.

02:44:18 8 Q. Were you told you were --

02:44:19 9 A. I thought they were up there to charge me with this.

02:44:22 10 They said no, we're not here to charge you.

02:44:24 11 Q. Were you told you were exonerated?

02:44:27 12 A. Never.

02:44:28 13 MR. OAKES: Objection, Your Honor, beyond the
02:44:29 14 scope of direct or cross.

02:44:31 15 THE COURT: Sustained.

02:44:31 16 A. We never --

02:44:33 17 THE COURT: No, sustained.

02:44:34 18 THE WITNESS: Sorry.

02:44:35 19 Q. When you talked about on direct -- on
02:44:39 20 cross-examination about living with your mother, did you
02:44:44 21 also live on a trailer on Route 11 at any point in time?

02:44:49 22 A. Trailer, Route 11.

02:44:51 23 Q. Near Rice Road.

02:44:52 24 A. Me?

02:44:55 25 Q. Yes.

02:44:55 1

A. No.

02:44:57 2

Q. Now you -- you testified on cross-examination that

02:45:10 3

you will never be getting out of prison, is that right?

02:45:13 4

A. Pretty much.

02:45:13 5

Q. Did you ever have a phone conversation with Jay

02:45:19 6

McGillicuddy where you spoke about coming out after ten

02:45:23 7

years?

02:45:23 8

A. Yeah. That's what my lawyer told me we can get it

02:45:26 9

down to.

02:45:26 10

MR. OAKES: Objection.

02:45:27 11

THE COURT: Hold on, Mr. Steen. What's your

02:45:28 12

objection, sir?

02:45:29 13

MR. OAKES: Well, foundation. I believe that

02:45:31 14

conversation if it occurred took place before his

02:45:34 15

conviction and sentence which is different.

02:45:36 16

THE COURT: I'll allow the question, only that

02:45:38 17

question. And your answer is what did he say, sir?

02:45:41 18

THE WITNESS: That's what my lawyer was

02:45:43 19

telling me we were trying to get was a ten-year deal.

02:45:45 20

Q. And you're currently housed in protective custody,

02:45:49 21

is that correct?

02:45:49 22

A. No.

02:45:50 23

Q. Were --

02:45:50 24

A. Never been in PC.

02:45:52 25

Q. Never. What would happen to you if word got out

02:45:58 **1** that you had information that you didn't tell and kept an
02:46:03 **2** innocent man in prison for twenty years? What do you think
02:46:05 **3** would happen to you?

02:46:06 **4** MR. OAKES: Objection, Your Honor.

02:46:08 **5** THE COURT: Don't answer the question. What's
02:46:10 **6** your objection?

02:46:11 **7** MR. OAKES: Beyond the scope of cross.

02:46:14 **8** THE COURT: Sustained.

02:46:14 **9** MS. PEEBLES: May we approach, Your Honor?

02:46:16 **10** THE COURT: Sure.

02:46:22 **11** (Whereupon, there was an off the record
02:46:23 **12** discussion).

02:47:22 **13** Q. Are you familiar to what happens to people who
02:47:25 **14** snitch in prison?

02:47:26 **15** A. Oh, yeah.

02:47:26 **16** Q. What happens to them?

02:47:28 **17** A. All depends. Multiple things can happen.

02:47:31 **18** Q. Like what?

02:47:32 **19** A. Back in the day it was different than now days. Now
02:47:35 **20** there is PC and they just sign in when they snitch.

02:47:39 **21** Q. So you testified on cross-examination that you would
02:47:44 **22** never be a snitch, correct?

02:47:45 **23** A. Never.

02:47:47 **24** Q. And you also testified that you would not disclose
02:47:54 **25** any information if you had some information about somebody

02:47:57 1 else being involved in this, is that correct?

02:48:00 2 A. Pretty much.

02:48:03 3 Q. What would happen -- what do you think would happen
02:48:07 4 to you if people in the jail found out you had information
02:48:12 5 but didn't disclose it and an innocent man was kept in
02:48:14 6 prison?

02:48:15 7 A. I don't have that information though so I'm not
02:48:18 8 worried about that.

02:48:19 9 Q. You're only worried about being perceived as a
02:48:22 10 snitch.

02:48:22 11 A. Pretty much.

02:48:24 12 Q. 'Cause that's the last thing --

02:48:26 13 A. I had nothing I can tell you, ma'am, about that will
02:48:28 14 save that man over there. Nothing. Nothing.

02:48:33 15 Q. But yet you told information about Roger
02:48:35 16 Breckenridge.

02:48:37 17 A. What Roger did, he picked it up, okay, just like he
02:48:40 18 said in the paper, and I didn't say anything about Roger
02:48:42 19 until after he put it out there himself. He told the paper
02:48:45 20 that himself.

02:48:47 21 Q. Okay. Thank you, sir.

02:48:52 22 THE COURT: Mr. Oakes?

02:48:53 23 MR. OAKES: No, thank you, Your Honor.

02:48:54 24 THE COURT: Okay, you might as well keep that
02:48:56 25 on, Ms. Bianco.

02:49:12 1 MR. MILES: Judge, can we approach?

02:49:15 2 THE COURT: Yes.

02:49:16 3 (Whereupon, there was an off the record

02:49:16 4 discussion).

02:49:31 5 THE COURT: We're done with Mr. Steen. Ms.

02:50:14 6 Bianco, your next witness?

02:50:17 7 MS. BIANCO: Roger Breckenridge please.

02:50:38 8 THE COURT: Please stand sir.

02:50:39 9 THE CLERK: Raise your right hand best you

02:50:42 10 can, place your left on the Bible.

11 R O G E R B R E C K E N R I D G E, Called as a witness,

12 having been duly sworn, was examined and testified as

02:50:53 13 follows:

02:50:53 14 THE CLERK: Please state your name for the

02:50:55 15 record.

02:50:55 16 THE WITNESS: Roger Breckenridge.

02:50:57 17 THE CLERK: Spell your last name.

02:50:58 18 THE WITNESS: B-R-E-C-K-E-N-R-I-D-G-E.

02:51:03 19 THE CLERK: Have a seat please.

02:51:06 20 THE COURT: Mr. Breckenridge, a couple things.

02:51:09 21 You seem to be very soft spoken. This is being

02:51:11 22 recorded. The people also have to hear you. The

02:51:13 23 acoustics in this building or in this room are not very

02:51:17 24 good. I want you to speak loudly enough so the back

02:51:19 25 wall can hear you, okay, sir?

02:51:21 1 THE WITNESS: Okay.

02:51:21 2 THE COURT: A little bit louder, sir.

02:51:22 3 THE WITNESS: Okay.

02:51:23 4 THE COURT: I'm also going to ask you whether
02:51:25 5 or not you consent to having your testimony video and
02:51:29 6 audio taped.

02:51:29 7 THE WITNESS: It don't matter.

02:51:31 8 THE COURT: I need a yes or no.

02:51:32 9 THE WITNESS: Yes, go ahead.

10 DIRECT EXAMINATION

02:51:42 11 BY MS. BIANCO:

02:51:42 12 Q. Good afternoon, Mr. Breckenridge.

02:51:44 13 THE COURT: Also, Mr. Breckenridge, all
02:51:46 14 responses have to be verbal, okay? You nodded your
02:51:48 15 head in acknowledgement Ms. Bianco saying hello to you,
02:51:53 16 but I need to make sure you respond verbally, okay,
02:51:55 17 sir?

02:51:55 18 A. Good afternoon.

02:52:03 19 Q. Mr. Breckenridge, how long have you been in the
02:52:08 20 courthouse today?

02:52:09 21 A. Just a couple minutes.

02:52:11 22 Q. A couple minutes?

02:52:12 23 A. Yeah.

02:52:13 24 Q. Did you hear any of the testimony from Mr. Steen
02:52:18 25 from where you were sitting?

- 02:52:19 **1** **A.** No, ma'am.
- 02:52:20 **2** **Q.** Do you know Gary Thibodeau?
- 02:52:24 **3** **A.** No, I don't.
- 02:52:25 **4** **Q.** How about Richard Thibodeau?
- 02:52:27 **5** **A.** No, I don't.
- 02:52:29 **6** **Q.** Now presently what are you convicted of?
- 02:52:35 **7** **A.** I'm convicted of stealing some junk metal.
- 02:52:39 **8** **Q.** In the past have you been convicted of giving a
- 02:52:42 **9** false written statement?
- 02:52:43 **10** **A.** No.
- 02:52:45 **11** **Q.** Are you certain of that?
- 02:52:47 **12** **A.** Oh, yeah, I did, back in the day of Josh Green.
- 02:52:54 **13** **Q.** What happened with that, the false statement?
- 02:52:57 **14** **A.** Nothing. I got it dropped down to -- I dealt with
- 02:53:06 **15** breaking an order of protection and driving without a
- 02:53:08 **16** license.
- 02:53:08 **17** **Q.** Did you get six months in jail for that?
- 02:53:10 **18** **A.** Yeah, but I only got -- I got it down from six
- 02:53:14 **19** month to driving without a license and breaking order of
- 02:53:18 **20** protections.
- 02:53:18 **21** **Q.** What did you lie about?
- 02:53:20 **22** **A.** About him having selling me marijuana.
- 02:53:24 **23** **THE COURT:** Who is him?
- 02:53:25 **24** **Q.** Who is him?
- 02:53:26 **25** **A.** Joey Green.

02:53:28 1 Q. And right now is there a warrant out for you for
02:53:34 2 lying to the police about your identity in Rome, New York?

02:53:37 3 A. Yes, ma'am.

02:53:37 4 MR. OAKES: Objection, Your Honor.

02:53:38 5 THE COURT: What's your objection?

02:53:39 6 MR. OAKES: Well, if there is a warrant, it's
02:53:42 7 irrelevant, one, and if there's a warrant, it's just an
02:53:46 8 accusation.

02:53:48 9 THE COURT: I don't -- I don't see the
02:53:49 10 relevance. My concern is you're impeaching your own
02:53:52 11 witness which you're not entitled to do. So I'm going
02:53:54 12 to sustain.

02:53:57 13 Q. Have you ever sold marijuana?

02:53:59 14 A. No, ma'am.

02:54:01 15 Q. So in 1992 you have never sold marijuana in Oswego?

02:54:07 16 A. No.

02:54:08 17 Q. Town of Hastings?

02:54:11 18 A. No.

02:54:12 19 Q. And you're certain of that.

02:54:13 20 A. Yeah.

02:54:14 21 MR. OAKES: Objection, Your Honor. Getting to
02:54:17 22 impeaching.

02:54:18 23 THE COURT: I'm going to sustain the
02:54:19 24 objection.

02:54:19 25 Q. Before going to prison, where were you living?

- 02:54:23 **1** **A.** 89 Dewey Road.
- 02:54:26 **2** **Q.** And where is that?
- 02:54:27 **3** **A.** Right in Mexico.
- 02:54:29 **4** **Q.** In the county of?
- 02:54:30 **5** **A.** Oswego, Oswego County.
- 02:54:33 **6** **Q.** How long have you lived in Oswego?
- 02:54:35 **7** **A.** All my life.
- 02:54:36 **8** **Q.** Were you ever married before?
- 02:54:39 **9** **A.** Yep.
- 02:54:40 **10** **Q.** Who was your first wife?
- 02:54:42 **11** **A.** Tracey Breckenridge.
- 02:54:44 **12** **Q.** And when did you marry Tracey?
- 02:54:46 **13** **A.** Eighty-six.
- 02:54:48 **14** **Q.** And how long --
- 02:54:49 **15** **A.** About eighty-six.
- 02:54:50 **16** **Q.** How long were you married?
- 02:54:52 **17** **A.** About ten, fifteen years.
- 02:54:54 **18** **Q.** Ten or fifteen years?
- 02:54:56 **19** **A.** Yeah, before we got divorced.
- 02:54:58 **20** **Q.** Did you ever separate her -- with her before the ten
- 02:55:02 **21** or fifteen years before you were divorced?
- 02:55:04 **22** **A.** Yeah, yep.
- 02:55:07 **23** **Q.** Were you ever dating a person by the name of
- 02:55:11 **24** Jennifer Wescott?
- 02:55:12 **25** **A.** Yes, ma'am.

- 02:55:12 1 Q. Okay, and when did you date Jennifer?
- 02:55:16 2 A. I got with Jennifer Wescott February seventeenth on
- 02:55:20 3 her birthday, her eighteenth birthday.
- 02:55:22 4 Q. And what year was that?
- 02:55:24 5 A. 1995.
- 02:55:26 6 Q. Did you know Jennifer Westcott before 1995?
- 02:55:29 7 A. The end of ninety-four.
- 02:55:32 8 Q. And was she a babysitter for you?
- 02:55:35 9 A. Yes, ma'am.
- 02:55:36 10 Q. Is it your testimony that in April of 1994 you were
- 02:55:48 11 not dating Jennifer Wescott?
- 02:55:49 12 A. No, ma'am.
- 02:55:50 13 Q. Did you know her at that time?
- 02:55:53 14 A. No, ma'am.
- 02:55:54 15 Q. Do you know who James Steen is?
- 02:55:57 16 A. Yeah.
- 02:55:58 17 Q. Who is he to you?
- 02:55:59 18 A. He was just a friend back in the day.
- 02:56:02 19 Q. In 1994 did you know him?
- 02:56:05 20 A. No. Well, I knew him, but I wasn't hanging out with
- 02:56:09 21 him or nothing like that back in ninety-four.
- 02:56:12 22 Q. Did you go to school with him?
- 02:56:13 23 A. Yes, I did.
- 02:56:14 24 Q. Did you later become friends?
- 02:56:19 25 A. Yep.

- 02:56:19 1 Q. And when was that?
- 02:56:20 2 A. It was -- it was like ninety-six. It was after I
- 02:56:26 3 met Jennifer he started coming around.
- 02:56:30 4 Q. So you -- did you ever junk cars for Murtaugh's?
- 02:56:36 5 A. I worked for Murtaugh's but I never junked 'em.
- 02:56:39 6 Q. How long did you work for Murtaugh's?
- 02:56:41 7 A. Just for a couple years.
- 02:56:42 8 Q. And what years were they?
- 02:56:44 9 A. Ninety-four, ninety-five.
- 02:56:45 10 Q. Were you hanging out with James Steen in 1994?
- 02:56:54 11 A. No, ma'am.
- 02:56:55 12 Q. Not at all?
- 02:56:55 13 A. No.
- 02:56:57 14 Q. Did you ever use drugs with James Steen?
- 02:57:00 15 MR. OAKES: Objection.
- 02:57:01 16 A. Yeah.
- 02:57:01 17 THE COURT: Stop. Hold on.
- 02:57:03 18 MR. OAKES: Leading. Objection, leading.
- 02:57:06 19 Foundation.
- 02:57:06 20 THE COURT: Sustained.
- 02:57:07 21 Q. Have you ever used drugs?
- 02:57:11 22 A. Yep.
- 02:57:12 23 Q. What type of drugs?
- 02:57:13 24 A. Marijuana.
- 02:57:14 25 Q. Anything else?

02:57:15 1

A. No.

02:57:16 2

Q. Have you ever used drugs with a person named James

02:57:20 3

Steen?

02:57:20 4

A. Yeah.

02:57:21 5

Q. When was that?

02:57:22 6

A. After I met him in ninety-six on and off we'd meet

02:57:30 7

him, smoke.

02:57:32 8

Q. How often would you see him?

02:57:34 9

A. Once a week back then.

02:57:37 10

Q. Did you talk --

02:57:38 11

A. Sometimes more.

02:57:40 12

Q. Did you talk to him a lot on the phone?

02:57:43 13

A. Not really on the phone. On the CB because we had

02:57:48 14

CBs back then.

02:57:49 15

Q. Did you talk to him on the CB?

02:57:51 16

A. Yep.

02:57:51 17

Q. Did you ever talk to James Steen about where Heidi

02:57:58 18

Allen's remains were?

02:57:59 19

A. No, ma'am.

02:58:01 20

MR. OAKES: Objection. Leading and

02:58:04 21

foundation.

02:58:04 22

THE COURT: I'll allow it.

02:58:06 23

Q. Did you ever talk to James Steen about a van that

02:58:14 24

Heidi Allen may have been abducted in?

02:58:16 25

A. No, ma'am.

02:58:17 1 Q. Were you ever asked the question by the police or
02:58:30 2 the prosecutors recently? You were interviewed by the
02:58:34 3 police on December thirtieth, correct?

02:58:36 4 A. Yeah.

02:58:37 5 Q. Of 2014, correct?

02:58:40 6 A. Um hum.

02:58:40 7 Q. And were you ever asked if you made any statements
02:58:45 8 to James Steen about Heidi Allen's remains?

02:58:48 9 MR. OAKES: Objection, Your Honor, relevance.

02:58:51 10 THE COURT: No, I think it's relevant. It's
02:58:53 11 leading but I think it's relevant.

02:58:54 12 A. What was that now?

02:58:56 13 Q. Were you ever asked a question by the prosecutors or
02:59:01 14 the investigators in December of 2014 about making
02:59:07 15 statements to James Steen about him hauling Heidi Allen's
02:59:13 16 remains to Canada. Were you ever asked about that?

02:59:16 17 A. Yes, I was.

02:59:17 18 Q. Okay, and what did you say?

02:59:18 19 A. No, I don't know nothing about none of it I told
02:59:21 20 'em.

02:59:22 21 Q. I want to ask you some questions about Rich
02:59:28 22 Murtaugh.

02:59:28 23 A. Go ahead.

02:59:29 24 Q. Is he a friend of yours?

02:59:30 25 A. Yes, he is.

02:59:31 1 Q. How long have you known him?

02:59:32 2 A. I've known him since ninety-four.

02:59:35 3 Q. And was he working at the same facility as you,
02:59:40 4 Murtaugh's junk yard?

02:59:41 5 A. Yeah, he owns it.

02:59:42 6 Q. And in April of 1994, were you working there at
02:59:51 7 Murtaugh's junkyard?

02:59:53 8 MR. OAKES: Objection.

02:59:53 9 A. No.

02:59:55 10 MR. OAKES: Leading.

02:59:56 11 THE COURT: I'll take it as foundational. But
02:59:58 12 attorneys please approach.

03:00:37 13 (Whereupon, there was an off the record
03:00:40 14 discussion at the bench.)

03:00:40 15 Q. When did you start working at Murtaugh's junkyard?

03:00:44 16 A. It was like the end of -- end of ninety-four I
03:00:49 17 started helping him out because he had a race car.

03:00:52 18 Q. In April of 1994, did you have a telephone
03:01:00 19 conversation with Richard Murtaugh?

03:01:04 20 A. No.

03:01:05 21 Q. You never spoke to him by telephone in April of
03:01:08 22 1994?

03:01:09 23 A. Nope.

03:01:11 24 Q. Are you familiar with the area of Fernwood?

03:01:16 25 A. Fernwood?

03:01:17 1

Q. Yes.

03:01:17 2

A. Not really.

03:01:19 3

Q. Have you ever picked up any vehicles in Fernwood for

03:01:25 4

Murtaugh?

03:01:25 5

A. No, not me.

03:01:26 6

Q. Have you ever picked up any vans as part of your

03:01:33 7

duties for Murtaugh?

03:01:35 8

A. No.

03:01:36 9

Q. Never once.

03:01:37 10

A. No.

03:01:38 11

Q. When you were employed with Murtaugh's, did you ever

03:01:50 12

have an occasion to travel?

03:01:50 13

A. No. I mean travel, we travel, I went to different

03:01:55 14

junk yards with John and junked, junked a car, junked the

03:02:00 15

lots out.

03:02:01 16

Q. Where were those junk yards?

03:02:02 17

A. One was out in Syracuse.

03:02:06 18

Q. Were any out of the country?

03:02:08 19

A. No.

03:02:09 20

Q. Like Canada.

03:02:09 21

A. No, never been to Canada my whole life.

03:02:15 22

Q. And is it your testimony then with -- how many vans

03:02:20 23

do you think you scrapped over the years?

03:02:24 24

A. One, one van. The rest was just cars, trucks and

03:02:28 25

stuff like that, tractors, junk metal.

03:02:31 1 Q. And when was that van scrapped?

03:02:34 2 A. We took that, me and Murtaugh took the van like a
03:02:37 3 month after -- after the stuff happened with Thibodeau.

03:02:40 4 Q. And where did you take the van from?

03:02:42 5 A. Thibodeau's house, yard.

03:02:44 6 Q. Okay, who gave you permission to take the van?

03:02:47 7 A. Nobody.

03:02:48 8 Q. So how did you get permission to take the van?

03:02:52 9 A. We didn't. We just took it.

03:02:54 10 Q. When you say took, what do you mean?

03:02:56 11 A. We just scrapped it. We just went on the property
03:02:59 12 and took it without permission. That's why I'm in prison
03:03:03 13 now, a couple tractors.

03:03:07 14 Q. I want to ask you some questions about Michael
03:03:10 15 Bohrer. Do you know him?

03:03:12 16 A. I met him once and he was too -- too much of a bug
03:03:17 17 out for me to hang out with and that was that. I never
03:03:20 18 hung out with him after that.

03:03:22 19 Q. In January fifth, 2015, were you visited at the
03:03:28 20 prison you're in by Richard Haumann and Frank Sardino?

03:03:33 21 A. Yeah.

03:03:33 22 Q. What did you tell them about your knowledge of
03:03:37 23 Michael Bohrer?

03:03:38 24 A. What I tell them? I told them back in the day
03:03:43 25 we hung out. I talked to him -- I called up Tom Martin and

03:03:47 1 asked him if he friggin' knew somebody could junk a couple
03:03:52 2 vehicles, and he got Michael Bohrer, he had a black pickup
03:03:55 3 truck with a trailer, and we went and junked the cars that
03:03:59 4 day, right up the road from the jail, and that was that, I
03:04:03 5 never talked to Michael Bohrer after that.

03:04:05 6 Q. What did you tell them the year that was?

03:04:08 7 A. It was around ninety-nine.

03:04:13 8 Q. Is it your testimony that you never said 1994?

03:04:18 9 A. No, never said ninety-four with him.

03:04:22 10 Q. On June twenty-third, 2014, did you give a
03:04:28 11 videotaped --

03:04:28 12 MR. OAKES: Objection.

03:04:29 13 THE COURT: Let's hear the question first.

03:04:31 14 Don't answer the question. Ask the question.

03:04:32 15 Q. Did you give a videotaped interview with a John
03:04:36 16 O'Brien from the Post-Standard?

03:04:38 17 A. Yes, ma'am.

03:04:39 18 THE COURT: That's foundational, that's fine.

03:04:41 19 MR. OAKES: Yep, that's all right.

03:04:42 20 Q. And where were you incarcerated at the time?

03:04:44 21 A. Mohawk.

03:04:45 22 Q. Okay, when Mr. -- did Mr. O'Brien ask you if you
03:04:50 23 knew Michael Bohrer?

03:04:52 24 A. Yeah.

03:04:52 25 Q. And what did you say?

03:04:54 1 MR. OAKES: Objection.

03:04:55 2 A. I told him --

03:04:56 3 THE COURT: Stop, stop, no, stop, stop. I'm
03:04:58 4 sorry, I apologize. It's not a leading question. I'll
03:05:01 5 allow the question.

03:05:02 6 MR. OAKES: I believe she's impeaching her own
03:05:04 7 witness, Your Honor.

03:05:05 8 THE COURT: Excuse me?

03:05:06 9 MR. OAKES: I believe she's impeaching her own
03:05:08 10 witness.

03:05:08 11 THE COURT: I'll hear the response and then --

12 MR. OAKES: Okay.

03:05:10 13 THE COURT: So ask the question again please.

03:05:12 14 Q. What did you tell Mr. O'Brien on that videotaped
03:05:17 15 interview about Michael Bohrer and your knowledge of him?

03:05:21 16 A. The same thing I told everybody about him.
03:05:24 17 Everybody that comes ask me about him, I say the same
03:05:27 18 thing.

03:05:28 19 Q. Did you say anything or what did you say with
03:05:32 20 regards to 1994 about Michael Bohrer?

03:05:34 21 A. I don't know. I didn't know him back in
03:05:36 22 ninety-four.

03:05:38 23 Q. Are you saying you don't know what you said or you
03:05:41 24 don't know what?

03:05:41 25 A. I'd never met -- I never knew Michael Bohrer back in

03:05:45 1 ninety-four, never. I never -- I didn't know who he was.

03:05:49 2 Q. Were you asked what your relationship was with

03:05:54 3 Michael Bohrer by Mr. O'Brien?

03:05:56 4 A. No. He never asked me that. I know there was a lot

03:06:04 5 of lies from him when he come up, I know that, the

03:06:09 6 Post-Standard had a lot of lies.

03:06:12 7 Q. And these lies, would they have been captured on

03:06:15 8 videotape?

03:06:17 9 A. I don't know if it was or not.

03:06:19 10 Q. Would something refresh your recollection about

03:06:21 11 seeing the videotape and you can explain what the lies

03:06:24 12 were?

03:06:25 13 THE COURT: Trying to impeach your witness.

03:06:29 14 We've had this conversation. We've had it with Mr.

03:06:32 15 Steen and had it again with Mr. Breckenridge. He is

03:06:38 16 your witness. You are not allowed to impeach your own

03:06:40 17 witness, okay, Ms. --

03:06:44 18 MS. BIANCO: Okay, Your Honor.

03:06:45 19 THE COURT: Thank you.

03:06:46 20 Q. Were you interviewed by Investigator Pietroski in

03:06:50 21 this case?

03:06:50 22 A. No.

03:06:52 23 Q. Did anyone from the Oswego County Sheriff's

03:06:57 24 Department come to speak with you about the disappearance

03:07:01 25 of Heidi Allen?

- 03:07:02 1 A. Yes.
- 03:07:02 2 Q. Okay, do you remember when that was?
- 03:07:07 3 A. The first time was I was in Elmira when two
- 03:07:15 4 investigators come talk to me about it.
- 03:07:17 5 Q. Did you give a statement?
- 03:07:19 6 A. Yeah.
- 03:07:20 7 Q. What did you tell them regarding Mike Bohrer?
- 03:07:26 8 A. Same thing I have been telling you about Michael
- 03:07:29 9 Bohrer. I didn't ever knew him, I didn't know who he was
- 03:07:31 10 back in ninety-four.
- 03:07:33 11 Q. Did you tell them anything about a computer shop?
- 03:07:40 12 A. That he had a computer shop on sixty-nine, that's --
- 03:07:45 13 that's about it, that's all I told them.
- 03:07:48 14 Q. Did you tell them if you had ever been there?
- 03:07:51 15 A. No. I never was there. Drove by it a lot but never
- 03:07:58 16 stopped in there.
- 03:07:58 17 Q. Do you know what the name of the store was?
- 03:08:03 18 A. Nope. I don't know how to read and write very good
- 03:08:06 19 so I wouldn't even known.
- 03:08:08 20 Q. Do you know a person named Carl Robinson?
- 03:08:13 21 A. No, I don't.
- 03:08:14 22 Q. In 2002 or 2003 --
- 03:08:34 23 MR. OAKES: Your Honor, I'm just seeking
- 03:08:37 24 clarification. Is that between 2002 and 2003 or is she
- 03:08:40 25 changing it from 2002 to 2003?

- 03:08:43 1 THE COURT: I interpret it between 2002, 2003.
- 03:08:46 2 MS. BIANCO: That's what I'm trying to get at.
- 03:08:48 3 MR. OAKES: Okay, I just want to be clear.
- 03:08:50 4 Thank you.
- 03:08:51 5 Q. Were you -- who were you hanging around with at that
- 03:08:56 6 time?
- 03:08:56 7 A. 2002 and two-thousand --
- 03:08:59 8 Q. Um hum.
- 03:09:00 9 A. I don't -- a bunch of people, you know, people that
- 03:09:06 10 used to come hang out, Jay Steen, Paul Huggins, people like
- 03:09:13 11 that would come over.
- 03:09:15 12 Q. Who were you dating at the time?
- 03:09:17 13 A. Jennifer Wescott on and off back then. A lot of
- 03:09:21 14 stuff was going on between me and her back around that
- 03:09:25 15 area, around that time. I was just getting out of jail,
- 03:09:31 16 six months.
- 03:09:32 17 Q. Were you using drugs at that time?
- 03:09:34 18 A. Yeah.
- 03:09:35 19 Q. What type of drugs?
- 03:09:36 20 A. Marijuana.
- 03:09:37 21 Q. And where would you get the marijuana from?
- 03:09:40 22 A. All kinds of people. Not just one person,
- 03:09:47 23 whatever who was around I got it.
- 03:09:48 24 Q. Well, can you name some of these people?
- 03:09:51 25 A. I plead the Fifth Amendment on that. I don't need

03:09:54 1 to name none of the people I bought weed from. That's
03:09:58 2 nothing to do with this.

03:09:59 3 MS. BIANCO: Your Honor, I'd like to treat the
03:10:00 4 witness as hostile.

03:10:01 5 THE COURT: First of all I'd like to know what
03:10:04 6 the relevance is. Attorneys approach.

03:10:27 7 (Whereupon, there was an off the record
03:17:43 8 discussion at the bench.)

03:17:43 9 THE COURT: Okay, go ahead.

03:17:44 10 Q. In 1994 -- let me strike that. Were you buying
03:17:54 11 marijuana from Michael Bohrer in late 2002, early 2003 at
03:18:00 12 his computer shop?

03:18:01 13 A. No, ma'am.

03:18:02 14 Q. In 1994, where did your mother live?

03:18:07 15 A. In ninety-four?

03:18:10 16 Q. Yes.

03:18:10 17 A. I'm not really sure where my mom lived back then.

03:18:13 18 Q. Did she live in a blue house?

03:18:16 19 A. I'm not really sure.

03:18:18 20 Q. Do you know -- are you familiar with the D&W
03:18:22 21 Convenience Store?

03:18:23 22 A. Yeah.

03:18:24 23 Q. How close was that to your mom's house where she
03:18:27 24 lived?

03:18:28 25 A. Mom lived -- my mom had to live around Parish then

03:18:35 1 in -- so that would have been twenty-five miles away,
03:18:40 2 thirty miles.

03:18:41 3 Q. Have you ever been to the D&W Convenience Store?

03:18:45 4 A. I started going to that store like ninety-eight,
03:18:52 5 ninety-nine I started to go into that store.

03:18:55 6 Q. Do you know, or excuse me, did you know Heidi Allen?

03:18:59 7 A. No, ma'am.

03:19:00 8 Q. Did you know anything about her?

03:19:03 9 A. No, ma'am.

03:19:04 10 Q. When you were interviewed by the police, did you say
03:19:08 11 anything about her?

03:19:09 12 A. No, ma'am.

03:19:11 13 Q. And you're certain of that?

03:19:12 14 A. Yeah, ma'am.

03:19:14 15 Q. You did not know any people who knew her?

03:19:17 16 A. No, ma'am.

03:19:18 17 Q. I want to ask --

03:19:23 18 THE COURT: Ms. Bianco, for my own
03:19:25 19 clarification, when interviewed by the police, what day
03:19:28 20 was the interview? Are you talking about all the
03:19:30 21 different interviews? Are you talking about one, the
03:19:32 22 most recently?

03:19:33 23 MS. BIANCO: Yes, I am, Judge.

03:19:37 24 THE COURT: Thank you.

03:19:39 25 MR. OAKES: Do we have a date for that?

03:19:41 1 MS. BIANCO: Yes.

03:19:41 2 MR. OAKES: Okay, I'm sorry.

03:19:42 3 Q. March nineteenth, 2013, you were interviewed?

03:19:48 4 A. Yeah.

03:19:49 5 Q. Did you give a written statement?

03:19:51 6 A. Yeah. I was in Elmira.

03:19:54 7 Q. Do you remember what you said in that written
03:19:57 8 statement?

03:19:57 9 A. Not really. I was all stressed out, the first time
03:20:00 10 ever going to prison. Ask the cops. I was stressed out
03:20:04 11 bad back then.

03:20:05 12 Q. Would reviewing your affidavit refresh your
03:20:09 13 recollection about what you told the police?

03:20:11 14 A. I don't remember. Like I said, I was stressed out
03:20:15 15 bad back then, really, really stressed out.

03:20:19 16 Q. Would you like to review your affidavit to see what
03:20:22 17 you said?

03:20:22 18 A. If you want.

03:20:23 19 MR. OAKES: Objection, Your Honor. I object
03:20:25 20 to this line of questioning 'cause it seems like
03:20:27 21 counsel's trying to impeach him on a prior inconsistent
03:20:32 22 statement. She's asking him questions, giving his
03:20:33 23 testimony, she's stuck with it, he's her witness.

03:20:35 24 THE COURT: He did say he doesn't remember so
03:20:38 25 you can't refresh his recollection. I'm going to

03:20:40 1 sustain it based on the document not refreshing his
03:20:44 2 recollection based on his response.

03:20:49 3 Q. Were you telling the truth when you met with the
03:20:55 4 police?

03:20:55 5 A. Yeah. I never -- I have been dealing with the
03:21:01 6 Oswego County Sheriff's for my whole life and I've never
03:21:04 7 been -- I have been pulled over and I have never lied to
03:21:07 8 them about nothing.

03:21:08 9 Q. Except the false written statement that you gave?

03:21:12 10 A. Yeah.

03:21:12 11 MR. OAKES: Objection.

03:21:14 12 A. Why do you keep bringing that up?

03:21:16 13 THE COURT: Stop, Mr. Breckenridge.

03:21:18 14 Sustained.

03:21:34 15 Q. Are you familiar with the area of Rice Road?

03:21:36 16 A. Yeah. I used to -- I used to drive up and down it a
03:21:41 17 lot. People said -- they said I lived on there. I never
03:21:44 18 lived on Rice Road in my whole life, never. Never knew
03:21:48 19 anybody that lived on Rice Road.

03:21:50 20 Q. What about Jennifer Wescott?

03:21:53 21 A. She -- she never lived on Rice Road either.

03:21:57 22 Q. Do you remember speaking with John O'Brien from the
03:22:00 23 Post-Standard on June twenty-third, 2014?

03:22:03 24 A. Yeah.

03:22:04 25 Q. Do you remember what you said to him about Jennifer

03:22:08 1
03:22:10 2
03:22:14 3
03:22:16 4
03:22:17 5
03:22:25 6
03:22:26 7
03:22:34 8
03:22:39 9
03:22:40 10
03:22:42 11
03:22:44 12
03:22:46 13
03:22:46 14
03:22:50 15
03:22:52 16
03:22:56 17
03:22:57 18
03:23:02 19
03:23:07 20
03:23:08 21
03:23:10 22
03:23:13 23
03:23:19 24
03:23:26 25

Wescott and Rice Road?

A. That never lived on Rice Road. I told him that.

Q. And you're certain of that.

A. Yeah.

Q. Have you ever met a woman named Deb Vecchio?

A. No, ma'am.

Q. Have you ever been interrogated by the police about the disappearance of Heidi Allen in 1995?

A. No.

MR. OAKES: Objection as to characterization,

Your Honor, interrogated.

THE COURT: I'll allow him to answer.

A. No.

Q. Had the police ever spoken to you in 1995 about the disappearance of Heidi Allen?

A. No, no. I never -- they never talked to me back then about it.

Q. Has anyone spoken to you, the police, before the year of 2013, about the disappearance of Heidi Allen?

A. No, ma'am.

Q. No one at all.

A. No, no cops or nothing.

Q. Do you know a person named Amanda Braley?

A. I met her through her -- her girlfriend Jennifer Lumley.

- 03:23:26 **1** Q. And do you know where she lived in the year of 2002?
- 03:23:32 **2** A. Nope.
- 03:23:34 **3** Q. Have you ever been to Jennifer Westcott's parents'
- 03:23:38 **4** house?
- 03:23:38 **5** A. Yeah.
- 03:23:40 **6** Q. Did you ever have a conversation about the abduction
- 03:23:45 **7** of Heidi Allen in the presence of Amanda Braley and
- 03:23:51 **8** Jennifer Wescott?
- 03:23:52 **9** A. No, ma'am. I've never talked about Heidi Allen to
- 03:23:57 **10** both nobody. I didn't need to talk to them. I don't know
- 03:24:00 **11** what happened to her so why would I talk about her.
- 03:24:03 **12** Whoever said that's lying.
- 03:24:05 **13** Q. You had absolutely no conversations?
- 03:24:08 **14** A. No.
- 03:24:08 **15** Q. About Heidi Allen.
- 03:24:10 **16** A. No.
- 03:24:10 **17** Q. Have you ever had a conversation about scrapping a
- 03:24:15 **18** van that was used in Heidi Allen's abduction?
- 03:24:19 **19** A. No, ma'am.
- 03:24:20 **20** Q. Not in front of anyone?
- 03:24:22 **21** A. Not in front of nobody.
- 03:24:24 **22** Q. Do you know a person by the name of Chris Combs?
- 03:24:30 **23** A. Chris Combs?
- 03:24:31 **24** Q. Yes.
- 03:24:32 **25** A. Yeah. That's my boss's brother.

03:24:35 1 Q. Did you ever have a conversation with Chris Combs
03:24:39 2 about the disappearance of Heidi Allen?

03:24:41 3 A. No, ma'am.

03:24:42 4 Q. Have you ever discussed with him where her remains
03:24:46 5 may be?

03:24:47 6 A. No, ma'am.

03:24:48 7 MR. OAKES: Objection. Asked and answered.

03:24:50 8 THE COURT: That's a different question. I'll
03:24:52 9 allow it, and he answered no.

03:24:55 10 Q. On the morning of April third, 1994, where were you?

03:25:01 11 A. I was with my brother on Paradise Road at Jeff
03:25:07 12 Derby's.

03:25:08 13 Q. What time did you go there?

03:25:10 14 A. At about seven, 6:45, seven o'clock in the morning.
03:25:14 15 You're talking about Easter morning, right?

03:25:16 16 Q. I am.

03:25:17 17 A. Yeah.

03:25:17 18 Q. And who was present at the time?

03:25:19 19 A. Hah?

03:25:21 20 Q. Who was present?

03:25:22 21 A. Who was present? What do you mean?

03:25:23 22 Q. When you went to -- with your brother to Jeff
03:25:26 23 Derby's, who was there?

03:25:27 24 A. Me, Larry, me and my brother Larry, Jeff Derby, this
03:25:34 25 other little dude named Charlie.

- 03:25:38 1 Q. And what did you do that morning?
- 03:25:40 2 A. Just hung out, visit, smoked a little bit of pot.
- 03:25:43 3 Q. What were you driving that morning?
- 03:25:45 4 A. Me and my -- my -- I was riding with my brother. He
- 03:25:49 5 had a little Ford Tempo, gray.
- 03:25:52 6 Q. Later that day where did you go?
- 03:25:56 7 A. I went back home. I was on Kenyon Road.
- 03:26:00 8 Q. So what time was that?
- 03:26:01 9 A. I got back home about nine, 9:30.
- 03:26:05 10 Q. So how long were you gone Easter morning in 1994
- 03:26:12 11 from your home?
- 03:26:13 12 A. About three, two, two and a half hours, three, three
- 03:26:17 13 hours I was gone.
- 03:26:18 14 Q. From 6:45 to 9:30?
- 03:26:20 15 A. Yeah.
- 03:26:21 16 Q. Did you ever see Jen Wescott that day?
- 03:26:27 17 A. No, ma'am.
- 03:26:27 18 Q. Did you have an argument with Jen Wescott in that
- 03:26:34 19 week, the week of April of 1994?
- 03:26:37 20 A. No, ma'am.
- 03:26:38 21 Q. Was any of your -- strike that. Do you know a
- 03:26:51 22 person named Grandma Breckenridge?
- 03:26:55 23 A. Grandma Breckenridge, that was my mom, everybody
- 03:26:58 24 called grandma.
- 03:27:00 25 Q. And was her house searched, are you aware of that?

- 03:27:06 1 A. No.
- 03:27:07 2 Q. Her property?
- 03:27:08 3 A. No.
- 03:27:09 4 Q. Do you know a person named Jessica Howard?
- 03:27:14 5 A. Yes. She's married to my -- my -- my daughter's --
- 03:27:19 6 my sister's son.
- 03:27:22 7 Q. Your daughter's brother or your sister's son?
- 03:27:26 8 A. My sister's son she's married to.
- 03:27:28 9 Q. Okay, nothing about your daughter.
- 03:27:31 10 A. No.
- 03:27:32 11 Q. Did you ever have a conversation in her presence
- 03:27:39 12 about what happened to Heidi Allen?
- 03:27:41 13 A. No, ma'am, never even talked to her. I don't talk
- 03:27:44 14 to her.
- 03:27:45 15 Q. Were you at family parties with her present?
- 03:27:51 16 A. Yeah.
- 03:27:52 17 Q. When was that?
- 03:27:53 18 A. I don't know. There was all kinds of parties.
- 03:27:57 19 We -- my family has all kinds of parties. I don't really
- 03:28:01 20 remember then, where or when, I don't keep track.
- 03:28:05 21 Q. Were there ever any discussions at these parties
- 03:28:08 22 about Heidi Allen?
- 03:28:09 23 A. No, ma'am, never once.
- 03:28:11 24 Q. Were there ever any discussions about her remains?
- 03:28:17 25 MR. OAKES: Objection.

- 03:28:18 **1** **A.** No, ma'am.
- 03:28:19 **2** **MR. OAKES:** Leading, Your Honor.
- 03:28:20 **3** **THE COURT:** No, not leading, but it was
- 03:28:22 **4** already asked and answered. Sustained.
- 03:28:25 **5** **Q.** Do you know what year Mike Bohrer had a black pickup
- 03:28:48 **6** truck?
- 03:28:48 **7** **A.** I met him like ninety-eight, ninety-nine. He had a
- 03:28:55 **8** black pickup truck. That was it. That's all I --
- 03:28:56 **9** **Q.** I'm sorry?
- 03:28:56 **10** **A.** Back in ninety-eight, ninety-nine.
- 03:28:59 **11** **Q.** And how did you know that?
- 03:29:00 **12** **A.** Hah?
- 03:29:02 **13** **Q.** How did you know he had a black pickup truck?
- 03:29:04 **14** **A.** I was -- I had him junk a couple cars with me back
- 03:29:07 **15** then, I just said that to you guys a couple minutes ago,
- 03:29:10 **16** and that was it. I never talked to him after that. It was
- 03:29:13 **17** over. He was too bugged out of a guy for me to hang out
- 03:29:17 **18** with. I never hung out with him.
- 03:29:25 **19** **MS. BIANCO:** May I have a moment, Your Honor.
- 03:29:27 **20** **THE COURT:** Sure.
- 03:29:28 **21** (Whereupon, there was a pause in the
- 03:29:41 **22** proceeding.)
- 03:29:41 **23** **Q.** The van you took from Mr. Thibodeau's property,
- 03:29:45 **24** remember testifying about that?
- 03:29:46 **25** **A.** Yeah.

- 03:29:47 **1** Q. Was that a van that was operable?
- 03:29:52 **2** A. No. That thing was junk.
- 03:29:55 **3** Q. So it didn't work?
- 03:29:56 **4** A. No.
- 03:29:57 **5** Q. And when --
- 03:29:57 **6** A. Didn't have no transmission in it.
- 03:29:59 **7** Q. How do you know?
- 03:30:00 **8** A. Because I -- when we took it to Murtaugh's, I
- 03:30:02 **9** flopped it upside down and we flopped them up, take the
- 03:30:08 **10** converters off them.
- 03:30:10 **11** Q. And when was that?
- 03:30:12 **12** A. It was like a month after the -- this all went down
- 03:30:16 **13** with Thibodeaus.
- 03:30:17 **14** Q. And why did you decide to go to Gary Thibodeau's
- 03:30:20 **15** house?
- 03:30:21 **16** A. Just like why I -- because stupid mistakes I made.
- 03:30:26 **17** That's why I'm in prison for right now.
- 03:30:28 **18** Q. What do you mean stupid mistakes?
- 03:30:31 **19** A. Going to junk stuff without permission.
- 03:30:34 **20** Q. And who were you with?
- 03:30:36 **21** A. That's what I'm in prison for.
- 03:30:38 **22** Q. Who were you with when you junked that van?
- 03:30:41 **23** A. Rich Murtaugh.
- 03:30:42 **24** Q. And whose idea was it to take it?
- 03:30:43 **25** A. Both of ours.

03:30:47 1 MS. BIANCO: No further questions, Your Honor.

03:30:48 2 THE COURT: Thank you. Mr. Oakes, just give
03:30:53 3 me a few seconds.

03:30:55 4 MR. OAKES: Yes, sir.

03:30:56 5 (Whereupon, there was a pause in the
03:31:00 6 proceeding.)

03:31:00 7 THE COURT: Go ahead, sir.

03:31:03 8 CROSS-EXAMINATION

03:31:03 9 BY MR. OAKES:

03:31:04 10 Q. Good afternoon, Mr. Breckenridge.

03:31:30 11 A. Good afternoon.

03:31:31 12 Q. How old are you, Mr. Breckenridge?

03:31:34 13 A. Forty-six.

03:31:35 14 Q. And when did you get married to Tracey Breckenridge?

03:31:38 15 A. Had to be eighty-six, eighty-four, eighty-six,
03:31:42 16 around there.

03:31:43 17 Q. That was your first marriage?

03:31:44 18 A. Yep.

03:31:45 19 Q. Your only marriage?

03:31:46 20 A. That's it.

03:31:47 21 Q. Okay, and you have a number of children with Tracey
03:31:51 22 Breckenridge?

03:31:52 23 A. Yeah.

03:31:52 24 Q. How many?

03:31:54 25 A. I got seven. No, five with her. Seven all

- 03:31:58 1 together.
- 03:31:58 2 Q. And generally what are their ages?
- 03:32:01 3 A. The oldest is twenty-eight, the youngest is
- 03:32:05 4 twenty-two.
- 03:32:06 5 Q. So back in Easter of ninety-four the kids would have
- 03:32:10 6 been little, would still have been home?
- 03:32:12 7 A. Sure was, a handful.
- 03:32:15 8 Q. And so back in that time, again, you guys had Easter
- 03:32:18 9 at your house, you had --
- 03:32:20 10 A. Yes.
- 03:32:20 11 Q. -- Easter baskets for the kids?
- 03:32:22 12 A. Yeah. We had it on Kenyon Road.
- 03:32:24 13 Q. And I just want to be clear, Mr. Breckenridge, on
- 03:32:30 14 Easter morning of ninety-four, you said you got up around
- 03:32:33 15 6:45, seven a.m. that day?
- 03:32:35 16 A. Um hum.
- 03:32:35 17 Q. And you went over to your brother Larry's house?
- 03:32:38 18 A. No. My brother Larry picked me up and we went to
- 03:32:40 19 Jeff Derby's.
- 03:32:41 20 Q. Why did Larry pick you up?
- 03:32:43 21 A. Didn't have no car at the time.
- 03:32:44 22 Q. Did you have a license at the time?
- 03:32:46 23 A. Nope.
- 03:32:47 24 Q. So Larry was your mean of transport?
- 03:32:50 25 A. Yeah.

- 03:32:51 **1** Q. What was the car he had again? Was it a Camaro you
03:32:55 **2** said?
- 03:32:55 **3** A. Hah?
- 03:32:56 **4** Q. Not a Camaro.
- 03:32:56 **5** A. Ford Tempo.
- 03:32:57 **6** Q. Ford Tempo. A little different. And where did your
03:33:02 **7** brother live at that time?
- 03:33:03 **8** A. My brother lived on 69A in Parish.
- 03:33:07 **9** Q. That's right in the Village of Parish, right?
- 03:33:09 **10** A. Yeah.
- 03:33:09 **11** Q. And did he live at that little white house, little
03:33:13 **12** apartment complex?
- 03:33:14 **13** A. Yep. Next to the blue house.
- 03:33:19 **14** Q. And you mentioned a blue house. Does that house
03:33:22 **15** stick out in your mind for a reason?
- 03:33:24 **16** A. Hah?
- 03:33:25 **17** Q. The blue house you just referenced, does that stick
03:33:28 **18** out in your mind for a reason?
- 03:33:29 **19** A. Yeah. My mom used to -- my mom moved in there
03:33:33 **20** afterwards, you know.
- 03:33:33 **21** Q. When you say afterwards, what are you referring to?
- 03:33:36 **22** A. I don't know. I can't remember what year it was
03:33:38 **23** when she lived there. It was -- yeah, I do because I --
03:33:43 **24** that's when Jacob was -- me and Jennifer were -- made
03:33:47 **25** Jacob.

- 03:33:48 1 Q. Okay, well, actually I was going to get to that. We
03:33:51 2 can talk about that now. At one point you were with -- in
03:33:57 3 a relationship with Jennifer Wescott?
- 03:33:59 4 A. Hah?
- 03:33:59 5 Q. You were in a relationship, boyfriend/girlfriend
03:34:02 6 with Jennifer Wescott?
- 03:34:03 7 A. The end of ninety-four, and I got with her in
03:34:09 8 ninety-five on her birthday.
- 03:34:09 9 Q. So toward the end of ninety-four, it was kind of
03:34:12 10 like you guys were flirting a little bit?
- 03:34:14 11 A. Yeah.
- 03:34:14 12 Q. But not doing anything?
- 03:34:15 13 A. Right.
- 03:34:16 14 Q. Okay, and when did she turn eighteen?
- 03:34:18 15 A. February seventeenth.
- 03:34:19 16 Q. Of which year?
- 03:34:21 17 A. Ninety-five.
- 03:34:22 18 Q. Let me ask were you waiting for her eighteenth
03:34:25 19 birthday for a reason?
- 03:34:26 20 A. No, no, I was -- just something that happened back
03:34:31 21 then.
- 03:34:31 22 Q. Okay. And do you remember her eighteenth birthday
03:34:36 23 for a particular reason? Did something of significance
03:34:38 24 happen on that day?
- 03:34:39 25 A. All kinds of stuff happened that day, you know.

- 03:34:44 **1** That was just --
- 03:34:46 **2** Q. Well, you said you had two kids, Jacob and Kristen
- 03:34:51 **3** with Jen?
- 03:34:52 **4** A. Yeah.
- 03:34:52 **5** Q. How old's Jacob?
- 03:34:54 **6** A. How old's Jacob? Jacob's nineteen now.
- 03:34:57 **7** Q. Okay, and do you remember what year he was born in?
- 03:34:59 **8** A. Jacob?
- 03:35:00 **9** Q. Yeah.
- 03:35:01 **10** A. Ninety-six.
- 03:35:02 **11** Q. Ninety-six, okay. Now when you guys had Jacob, you
- 03:35:07 **12** and Jen, where were you living when Jacob was a little guy,
- 03:35:10 **13** well, was a baby, first year?
- 03:35:12 **14** A. We were living with Jennifer's mom and dad on
- 03:35:15 **15** thirty-eight.
- 03:35:15 **16** Q. What township's that in?
- 03:35:17 **17** A. Hastings.
- 03:35:18 **18** Q. Now that spot in thirty-eight, is that basically if
- 03:35:22 **19** you go from Route 11, you go thirty-eight, kind of take a
- 03:35:26 **20** bend and there's railroad tracks right there?
- 03:35:28 **21** A. First place after the railroad tracks.
- 03:35:32 **22** Q. And her mom and dad were together at that time?
- 03:35:33 **23** A. Yep.
- 03:35:33 **24** Q. Is that Paul and Sharon?
- 03:35:34 **25** A. Yep.

- 03:35:35 **1** Q. Now she had two sisters that were living there at
03:35:38 **2** the time too, right?
- 03:35:38 **3** A. Yes, Jessica and --
- 03:35:40 **4** Q. Missy?
- 03:35:41 **5** A. Missy.
- 03:35:42 **6** Q. Okay, now, did you ever live on Rice Road with
03:35:50 **7** Jennifer?
- 03:35:50 **8** A. No, ma'am. No.
- 03:35:53 **9** Q. Come on, Roger.
- 03:35:55 **10** A. No. Never lived on Rice Road in my whole life.
- 03:36:00 **11** Q. Okay. Now, you talked to Ms. Bianco about going to
03:36:10 **12** take a vehicle from the Thibodeaus?
- 03:36:12 **13** A. Yeah.
- 03:36:13 **14** Q. Now I just want to be clear when you say Thibodeaus,
03:36:15 **15** there are two Thibodeaus. There is Gary right here and
03:36:19 **16** then Richard.
- 03:36:19 **17** A. That was Gary on Kipp Road, on Kenyon Road.
- 03:36:24 **18** Q. And you went there with Rich Murtaugh?
- 03:36:26 **19** A. Yes.
- 03:36:26 **20** Q. Let me ask you was Dawn Delacruz Rich's girlfriend
03:36:30 **21** or --
- 03:36:30 **22** A. Yep.
- 03:36:33 **23** Q. I guess they're not married, but they have been
03:36:34 **24** together forever?
- 03:36:34 **25** A. Forever.

- 03:36:34 **1** Q. Okay, was she with you as well?
- 03:36:36 **2** A. Yeah.
- 03:36:36 **3** Q. Who decided to go to Gary's place to take that van?
- 03:36:43 **4** Whose idea was it?
- 03:36:44 **5** A. It was both me and Rich's idea. We needed race car
- 03:36:48 **6** tires at the time so we did it to get race car tires.
- 03:36:51 **7** Q. And at that time if you had scrapped a van,
- 03:36:53 **8** generally how much would you get for it?
- 03:36:54 **9** A. Oh, back then probably I think we got like
- 03:36:57 **10** three-hundred bucks back then for it.
- 03:36:59 **11** Q. Now, what type of vehicle -- did you guys use a --
- 03:37:03 **12** like a rollout flat back?
- 03:37:05 **13** A. Yeah, a rollback.
- 03:37:06 **14** Q. Rollback, there you go. And you guys went, loaded
- 03:37:09 **15** up the vehicle because you said it had no tranny?
- 03:37:12 **16** A. Yeah. Sat there for a while.
- 03:37:15 **17** Q. Now, did you get out? Who actually hooked up the
- 03:37:19 **18** van?
- 03:37:20 **19** A. Me.
- 03:37:20 **20** Q. Who operated the winch?
- 03:37:23 **21** A. Rich.
- 03:37:24 **22** Q. Whose truck was it?
- 03:37:25 **23** A. Murtaugh's.
- 03:37:27 **24** Q. Did it belong -- was it Rich's personal truck or did
- 03:37:30 **25** it belong to the family --

03:37:31 1 A. It belonged to the family, the junk yard.

03:37:37 2 Q. And again, you indicated -- do you remember the
03:37:40 3 color of the van?

03:37:40 4 A. Hah?

03:37:41 5 Q. Do you recall --

03:37:42 6 A. Blue.

03:37:42 7 Q. Blue?

03:38:34 8 (People's Exhibit I was marked for
03:38:36 9 identification).

03:38:37 10 MR. OAKES: May I approach, Your Honor?

03:38:40 11 THE COURT: Absolutely.

03:38:41 12 Q. Mr. Breckenridge, I'm showing you what's been marked
03:38:44 13 for identification as People's Exhibit I, a bag with a
03:38:46 14 photograph in it. I'm going to ask you to take a moment
03:38:49 15 and look at that photograph.

03:38:51 16 A. Um hum.

03:38:52 17 Q. Do you recognize the van in that photograph? Well,
03:38:58 18 let me ask if that's the van that you took from Gary
03:39:01 19 Thibodeau's property, originally took?

03:39:02 20 A. No, that ain't the van.

03:39:03 21 Q. That ain't the van?

03:39:04 22 A. No. The van we took from Gary Thibodeau's had a
03:39:08 23 pink Cadillac right next to it.

03:39:10 24 Q. Again, this might not be from the same day, but
03:39:12 25 instead of focussing on the Cadillac, look at the van. You

03:39:16 1 said the van was what color again?

03:39:18 2 A. It was blue, but the van that we took sat right next
03:39:21 3 to a pink Cadillac in the driveway. There ain't no pink
03:39:25 4 Cadillac next to it so I'm not going to say that's the van.

03:39:30 5 THE COURT: I'm not sure he understands your
03:39:33 6 question.

03:39:33 7 A. The only reason I know there was a pink Cadillac
03:39:36 8 because I opened up the door to get inside the -- unlock
03:39:38 9 the steering, I smashed the door with the pink Cadillac.
03:39:42 10 Pink Cadillac was next to the van. That's not the one.

03:39:45 11 Q. Was the pink Cadillac operable?

03:39:48 12 A. No. They were both junk, sat there for a little
03:39:50 13 while.

03:39:51 14 Q. Mr. Breckenridge, would you agree that vehicles can
03:39:56 15 be moved on and off properties at different times?

03:39:58 16 A. Yeah.

03:39:58 17 Q. And I guess what I'm asking you is I'm not asking
03:40:01 18 you if that's a photograph of the day that you took the
03:40:04 19 van, with the same exact vehicles. Again, disregard the
03:40:09 20 other vehicles just focussing on the blue van. Do you
03:40:14 21 know --

03:40:14 22 MS. BIANCO: Objection. Asked and answered,
03:40:15 23 Judge.

03:40:16 24 THE COURT: I'm going to allow it. I don't
03:40:17 25 think Mr. Breckenridge understands the question.

03:40:21 1 THE WITNESS: Yeah, I do. They want to know
03:40:21 2 if that's the van. If there was a pink Cadillac next
03:40:24 3 to it, I would say yeah, but there ain't no pink
03:40:26 4 Cadillac next to it. The van that we took from Gary
03:40:29 5 Thibodeau's house, there was a pink Cadillac right next
03:40:32 6 to it, right next to it. There ain't a pink Cadillac
03:40:35 7 next to that van.

03:40:36 8 Q. So you're not sure.

03:40:37 9 A. No. I am sure. I know what me and Murtaugh junked.
03:40:41 10 We junked the van that was right next to a pink Cadillac
03:40:44 11 right in front of the house. There ain't no pink Cadillac
03:40:47 12 there. Thibodeau knows that, he's right there.

03:40:54 13 THE COURT: Mr. Breckenridge, don't go beyond
03:40:57 14 the question.

03:41:01 15 Q. Now you had indicated to Ms. Bianco when you took
03:41:04 16 the van -- you stole the van.

03:41:07 17 A. Yeah.

03:41:07 18 Q. You didn't have Gary Thibodeau's permission to take
03:41:11 19 it?

03:41:11 20 A. No.

03:41:11 21 Q. Would it be fair to say you said at the time that
03:41:15 22 you took it, you don't remember the exact date that you
03:41:17 23 took it, is that fair?

03:41:18 24 A. No. It was like a month after all the bullshit went
03:41:21 25 down, all the caution tape was gone and everything.

03:41:24 1 Q. After all the what was gone?

03:41:25 2 A. After Thibodeau got -- after they searched

03:41:28 3 Thibodeau's house and blah, blah, blah, caution tape was

03:41:32 4 down, and then we went and took it. It was like a month,

03:41:34 5 month and a half afterwards.

03:41:35 6 Q. So by the time you had -- by the time you took the

03:41:38 7 van, the police had been to Gary Thibodeau's property on

03:41:42 8 Kenyon Road, they had searched it?

03:41:44 9 A. Yep.

03:41:44 10 Q. And the van was still sitting there at the time?

03:41:46 11 A. Yeah.

03:41:46 12 Q. And was Mr. Thibodeau, Gary Thibodeau locked up at

03:41:51 13 that point when you went and junked the van?

03:41:52 14 A. Yep.

03:41:54 15 Q. Would it be fair to say you figured he's locked up

03:41:57 16 he's not going to miss the van?

03:41:59 17 A. Yeah.

03:41:59 18 Q. And you said it was a stupid mistake.

03:42:02 19 A. Yeah, just like what I'm sitting in prison for right

03:42:04 20 now.

03:42:05 21 Q. Actually I want to ask you about that, Mr.

03:42:07 22 Breckenridge. What did you steal that landed you in prison

03:42:09 23 right now?

03:42:09 24 A. A couple junk tractors, farm tractors.

03:42:12 25 Q. Now, when you got arrested for this charge by the

- 03:42:18 **1** Oswego County Sheriff's Department, correct?
- 03:42:20 **2** **A.** Um hum.
- 03:42:20 **3** **Q.** And as part of that I'd say investigation, you spoke
- 03:42:24 **4** with Investigator Dale Mac Donald of the Sheriff's
- 03:42:28 **5** Department?
- 03:42:28 **6** **A.** Yeah, it had to be him.
- 03:42:29 **7** **Q.** Mr. Breckenridge, didn't you actually call up
- 03:42:32 **8** Investigator Mac Donald on the phone and tell him that you
- 03:42:35 **9** and others stole the property?
- 03:42:36 **10** **A.** Yep.
- 03:42:38 **11** **Q.** You just called up out of the blue and told them
- 03:42:40 **12** didn't you?
- 03:42:40 **13** **A.** Yes, I did.
- 03:42:43 **14** **Q.** Okay, because you stole it, so you admitted you
- 03:42:45 **15** stole it.
- 03:42:45 **16** **A.** Damn right.
- 03:42:46 **17** **Q.** And then you pled guilty to the charge?
- 03:42:48 **18** **A.** Yep.
- 03:42:49 **19** **Q.** And you accepted your state prison sentence.
- 03:42:51 **20** **A.** Yep.
- 03:42:54 **21** **Q.** I want to go back to a statement you made a few
- 03:43:03 **22** minutes ago or when Ms. Bianco was questioning you. You
- 03:43:07 **23** talked about Michael Bohrer having a black pickup truck
- 03:43:10 **24** sometime in ninety-eight, ninety-nine. Then you said you
- 03:43:13 **25** didn't hang out with him because I think the quote was

- 03:43:16 **1** "he's too bugged out of a guy." Was that your words?
- 03:43:20 **2** **A.** That's my words.
- 03:43:21 **3** **Q.** What do you mean by that?
- 03:43:22 **4** **A.** He's just -- he was just different.
- 03:43:24 **5** **Q.** How so?
- 03:43:25 **6** **A.** He was just -- he was just a weird guy, man. Just
- 03:43:30 **7** somebody that I don't -- I don't hang out with people like
- 03:43:32 **8** that. That was it, you know, it was one day, he was -- he
- 03:43:35 **9** was way enough for me. He was over there biting his
- 03:43:38 **10** tongue, his arms, and it was like wow, what's wrong with
- 03:43:42 **11** this guy, you know.
- 03:43:44 **12** **Q.** Okay, so one day was enough and --
- 03:43:48 **13** **A.** That was enough for me.
- 03:43:52 **14** **Q.** Mr. Breckenridge, you said you don't know the
- 03:44:17 **15** Thibodeaus.
- 03:44:17 **16** **A.** Nope.
- 03:44:17 **17** **Q.** You don't know Richard Thibodeau?
- 03:44:20 **18** **A.** No.
- 03:44:20 **19** **Q.** You don't know Gary Thibodeau?
- 03:44:22 **20** **A.** Nope.
- 03:44:23 **21** **Q.** As far as you know, you've never met them?
- 03:44:26 **22** **A.** Never.
- 03:44:27 **23** **Q.** Do you have any personal knowledge whether -- do you
- 03:44:31 **24** have any personal knowledge regarding Gary Thibodeau's
- 03:44:34 **25** guilt regarding the abduction and kidnap of Heidi Allen?

03:44:38 **1** A. Never knew anything. I never -- I never -- I don't,
03:44:42 **2** you know.

03:44:43 **3** Q. Would it be fair to say as you sit there you
03:44:46 **4** personally don't know whether he's guilty or innocent?

03:44:49 **5** A. No.

03:44:52 **6** Q. Let me ask you, did you have anything to do with the
03:44:56 **7** abduction of Heidi Allen?

03:44:58 **8** A. No.

03:44:59 **9** Q. Did you go to the D&W Store on Easter morning of
03:45:04 **10** ninety-four?

03:45:05 **11** A. No.

03:45:06 **12** Q. Did you work with any other people to lure her out
03:45:10 **13** of the store and throw her in a van?

03:45:13 **14** A. Nope.

03:45:13 **15** Q. Did you see Heidi Allen?

03:45:16 **16** A. No.

03:45:16 **17** Q. At Easter morning of ninety-four or any time after
03:45:19 **18** that?

03:45:19 **19** A. No.

03:45:21 **20** Q. Did you ever dispose of her remains?

03:45:24 **21** A. Nope.

03:45:26 **22** Q. Do you have any idea where her remains are?

03:45:29 **23** A. Nope.

03:45:31 **24** Q. If you did, if you had heard reliable information
03:45:35 **25** regarding where her remains are, would you tell somebody?

- 03:45:38 1 A. Yes, I would.
- 03:45:39 2 Q. Why would you?
- 03:45:39 3 A. Because I got kids that age, I would want to know if
- 03:45:44 4 something happened to one of my daughters, I would want to
- 03:45:46 5 know what happened to my kid, yes, I would, and that's the
- 03:45:50 6 God's honest truth. If I knew where she was, I'd be
- 03:45:53 7 telling right here and right now.
- 03:45:55 8 Q. But you don't know?
- 03:45:56 9 A. But I don't know. I wish I did.
- 03:46:00 10 Q. Thank you, Mr. Breckenridge.
- 03:46:04 11 MS. BIANCO: Can we have a moment, Judge?
- 03:46:06 12 THE COURT: Yeah because I want to see if we
- 03:46:08 13 have enough time or do you anticipate bringing Mr.
- 03:46:12 14 Breckenridge back tomorrow?
- 03:46:15 15 MS. PEEBLES: Maybe we could bring him back
- 03:46:16 16 tomorrow, Your Honor, first thing.
- 03:46:17 17 THE COURT: Can we approach please?
- 03:46:18 18 (Whereupon, there was an off the record
- 03:46:20 19 discussion at the bench).
- 03:47:00 20 THE COURT: Ms. Peebles, Ms. Bianco and the
- 03:47:05 21 People, we are going to adjourn the matter till nine
- 03:47:09 22 o'clock tomorrow morning. Mr. Breckenridge will be the
- 03:47:13 23 first planned witness tomorrow morning subject to Judge
- 03:47:15 24 Fahey's availability, is that correct, Ms. Peebles?
- 03:47:17 25 MS. PEEBLES: Yes, it is Your Honor.

03:47:18 1

THE COURT: Mr. Oakes, Mr. Moody?

03:47:20 2

MR. OAKES: Yes, Your Honor.

03:47:21 3

THE COURT: We stand in recess today. You'll

03:47:23 4

be brought back tomorrow, sir.

5

(Conclusion of Proceeding).

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7

C E R T I F I C A T E

8

I, JENNIFER ADYDAN, an Official Court

9

Reporter in and for the State of New York, Fifth

10

Judicial District, do hereby certify that the foregoing

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is a true, complete and accurate transcript of my

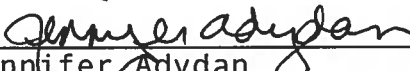
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stenographic notes taken in the above-entitled matter

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and the whole thereof to the best of my ability.

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Jennifer Adydan
Official Court Reporter

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DATED: January 24, 2015

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